

**Sedition, Violence, Theft and Disorder:  
Crime, Protest and the Use of the Criminal  
Law in Wellington during the General Strike  
of 1913**

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by

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For my parents, Mavis and Alex Anderson

and for Elaine Griffin, Roger Griffin, Helen Griffin,  
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## Abstract

This thesis investigates the connection between industrial protest and the crime committed in Wellington during the 1913 General Strike. The possibility that the ways in which the criminal law was implemented changed in response to the strike has also been examined. The crimes focused upon include violence, theft, anti-state actions, seditious utterances, verbal abuse, threatening behaviour and desertion. Crimes committed in Wellington during and in the two years before the start of the strike have been researched. In all, 1757 criminal charges for violence, theft or potential anti-state actions are studied.

Some comparisons are made with violence, crime, prosecutions and policing during the 1890 Maritime Strike and the 1951 Waterfront Dispute. International research on crime, protest, prosecutions, policing and industrial disputes is also discussed to provide a basis for the New Zealand case study. Six hypotheses from the international research are tested against the data gathered on Wellington. Three of these hypotheses concern crime as protest by strikers. The other three hypotheses focus on the uses made of the criminal law during industrial disputes (through arrests, prosecutions, verdicts, sentences, the refusal of bail, and jury trials).

Offences by strikers against their employers and against strike-breakers are found to have been surprisingly infrequent in Wellington in late 1913. Crime as protest by strikers and sympathisers against special constables was very common. There is no evidence, however, that theft was used as a form of protest during the strike.

The response of the police to the 1913 strike and the related disorder was to intensify their efforts to control certain types of offences, in particular, socially threatening "crimes" associated with the strike. Overall, the police displayed a surprising degree of restraint in making arrests. The analysis of conviction and sentencing patterns indicates that the Wellington judiciary responded firmly to the period of disorder and heightened social tensions, but that this response was neither malicious nor indiscriminate. The criminal law was not used as a means to remove (through conviction and imprisonment) all "undesirables" or potential "troublemakers" from the streets of Wellington. Many of those who were convicted of strike related offences received longer terms of imprisonment and larger fines than were imposed prior to the strike. These sentences were intended to deter potential offenders and prevent further disorder, as well as to punish those caught. The penalties were firm but not as severe as the law allowed.



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## Chapter 1

### Introduction

Terrorism At Wharves - Lawless Mob Outbreaks - Steamers Rushed by the Strikers - Police to be Re-inforced - The Shipping Operations Paralysed

(large) headline in *The Dominion*, 25 October 1913, p.5, cols. 7 and 8

Stephen Thomas Hunt, one of the party of special constables who arrived from Palmerston on the night of October 29, stated that as they were proceeding to the police station they passed a number of men at the corner of Bunny Street. One of the men called out, "Here's these ----- scabs! Let's take to them!" This crowd followed them all the way to the police station, shouting similar language and throwing stones. Witness was one of those who were hit.

Report in *The Dominion*, 05 February 1914, p.9, cols. 4-5 of Thomas Acland's Supreme Court trial for taking part in a riot and using obscene language on 29 October 1913. Acland, a waterside worker who had gone on strike in 1913, was convicted by the jury on both charges.

In view of the gigantic conspiracy to smash organised labour, and the life and death struggle throughout New Zealand in order to preserve unionism against armed blacklegism, we call upon your union to make it a common cause by refusing to work till the armed scabs leave the city. Auckland is magnificently solid. Will you follow? Labour's defeat means labour's annihilation.

The manifesto of the United Federation of Labour calling for a general strike in Wellington - issued 10 November 1913.<sup>1</sup>

The [United] Federation of Labour is a cancerous growth which has been eating into the vitals of legitimate labour unionism as well as threatening the healthy development of the industries and trade of the country.

editorial in *The Dominion*, 14 November 1913, p.6, col. 5

The 1913 General Strike was one of the most turbulent and violent industrial disputes in New Zealand's history. In late October and early November 1913 riots in Wellington were an almost daily occurrence.<sup>2</sup> This thesis seeks to determine the connection between the industrial protest and

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<sup>1</sup> Quoted in P. N. Pettit, **The Wellington Watersiders - The Story of Their Industrial Organisation**, (Wellington: Wellington Branch of the New Zealand Waterside Workers' Union, 1948), p.60. (Pettit cites as from G. G. Hancox and J. Hight, 'The Labour Movement and the Strike of 1913 in New Zealand', **The Economic Journal**, June 1914, p.191).

<sup>2</sup> See Richard S. Hill, **The Iron Hand in the Velvet Glove: The Modernisation of Policing in New Zealand 1886-1917**, (Palmerston North:

the crime committed during the strike. The uses made of the criminal law in response to this period of social tension and civil strife will also be examined.

The two month strike began in Wellington on 18 October 1913 and in Huntly on 20 October. It quickly spread throughout the country. In total, between 14,000 and 16,000 unionists went on strike, nearly all of whom were either watersiders, seamen, coal miners, carters or labourers.<sup>3</sup>

Central to the strike was the struggle between militant unionists and employers (who were aided by the State) for control over industrial relations in New Zealand. For the striking unions the struggle for control eventually devolved into a battle for survival, which they ultimately lost. The dispute was not fought over wages or conditions, but was an industrial battle concerning who controlled the balance of power in industrial relations.

The dispute was depicted by the strike leaders as involving a 'gigantic conspiracy to smash organised labour'. Those opposed to the strike considered the national trade union organisation (the United Federation of Labour) which the majority of the strikers and strike leaders supported to be a 'cancerous growth' and a serious threat to the country's well being.

To maintain order in the port cities the Government called for the enrolment of special constables. Thousands of men from both rural and urban areas volunteered for service. In Wellington the volunteers initially

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Dunmore Press, 1995), pp.305 and 308-314. Also see Chapter Five in the current thesis.

<sup>3</sup> John E. Martin, **Holding the Balance: A History of New Zealand's Department of Labour 1891-1995**, (Christchurch: Canterbury University Press, 1996), p.116 provides the figure of nearly 14,000 unionists involved nationally taken from the AJHR, 1914, H-11, p.13; H. Roth, **Trade Unions in New Zealand: Past and Present**, (Wellington: Reed Education, 1973), p.38 estimates that about 16,000 men joined the strike nationally: 2,000 seamen, 4,000 miners, 5,000 watersiders, and 5,000 others. (no reference given)

required the protection of the regular police and the New Zealand army. On 30 October two newly enrolled special constables were chased by a crowd along Lambton Quay, and one of them had to be rescued from Whitcombe and Tombs bookshop by the regular police.<sup>4</sup> During the height of the strike, angry crowds of unionists and their supporters faced Royal New Zealand Artillerymen armed with rifles and machine-guns at the barricades constructed at the Taranaki and Tory Street intersections with Buckle Street. Behind the barricades was the Defence Department's Mount Cook complex at which the volunteer constables from rural areas and their horses were quartered.<sup>5</sup>

Other men, including clerks, farmers, rural labourers, accountants, butchers, ship's officers, employers, and former strikers, acted as replacements for those who were on strike.<sup>6</sup> Rival unions, known as Arbitration unions, were formed in opposition to those unions which had chosen to strike. The founding membership of the (Arbitration) Wellington Wharf Labourers' Industrial Union of Workers were mainly farmers, farmers' sons and farm labourers.<sup>7</sup> In the following week the membership of this

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<sup>4</sup> **The Dominion**, 22 November 1913, p.6, col. 7 (evidence given at a criminal prosecution related to this incident), and Hill, **The Iron Hand in the Velvet Glove**, pp.308-309.

<sup>5</sup> Hill, **The Iron Hand in the Velvet Glove**, pp.308, 309 and 312-313; and see Erik Olssen, **The Red Feds: Revolutionary Industrial Unionism and the New Zealand Federation of Labour 1908-14**, (Auckland: Oxford University Press, 1988), pp.183-184.

<sup>6</sup> See **The Dominion**, 25 October 1913, p.5, cols. 7-8, and p.6, cols. 2-3; 13 November 1913, p.8, col. 3; 14 November 1913, p.9, col. 5; 18 November 1913, p.9, col. 1; 19 November 1913, p.8, col. 5; 20 November 1913, p.8, col. 7; 25 November 1913, p.8, col. 3; and **The Evening Post**, 17 November 1913, p.8, col. 5; and 18 November 1913, p.3, col. 4 and p.8, col. 2. Also see Chapter Five, p.188 and the references in footnote 102 on p.191 in the current thesis.

<sup>7</sup> **The Dominion**, 07 November 1913, p.8, col. 7.

Arbitration union grew from 'nearly seventy' to four hundred and thirty.<sup>8</sup> The majority of these 430 replacement watersiders were farmers and farmers' sons, though there was 'a good sprinkling of ordinary workers as well.'<sup>9</sup>

The months of October through December 1913 were unquestionably a period of heightened social tension and overt social conflict in the port cities and mining communities of New Zealand. In addition to mass demonstrations, angry crowds, fiery rhetoric from the strike leaders, the presence of hundreds of mounted special constables armed with batons, and the replacement of strikers with volunteer workers there were outbreaks of serious violence and rioting and the fear of further disorder and violence.

International research into the social history of crime by historians, sociologists, criminologists, and political scientists, has frequently, and often convincingly, hypothesised a connection between periods of high or heightened social tension and crime. This connection has usually been described in terms of certain criminal activities (varying from context to context) having been used, to varying extents, as forms of protest against perceived oppression or injustice.

Within the historiography of crime two general types of linkages between crime and protest have been formulated: first, the situation where criminal activities are used as an additional means of protest during a period

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<sup>8</sup> **The Dominion**, 07 November 1913, p.8, col. 7; and 14 November 1913, p.7, col. 7.

<sup>9</sup> Letter, E. C. Jack (Dominion Secretary of the New Zealand Farmers' Union) to James G. Wilson (Dominion President of the New Zealand Farmers' Union), 14 November 1913, L. J. Wild Collection of Sir James G. Wilson Papers, MS 137: Container 9: Inwards Correspondence, undated (held at Alexander Turnbull Library, Wellington), as quoted in Virginia Hughes, 'Massey's Cossacks': The Farmers and the 1913 Strike', (unpublished MA research essay, University of Auckland, 1977), p.25.

of union pickets, demonstrations, or other overt and mass protest; and secondly, instances where the criminal acts themselves are a major form, if not the main form, of protest, usually in a context where mass protest is not attempted.

The international research on these two basic connections between crime and protest will now be examined, to demonstrate that the study of crime and protest has been (especially in the last twenty-six years), and still is, an important, valid, and much disputed aspect of social history, historical criminology and historical sociology. Expanding this type of research into the New Zealand context through this thesis will be shown to be a valid and useful contribution to the history of labour disputes, of crime, and of policing in New Zealand, as well as to the international social history of crime and protest, and international research on the policing of protest.

The discussion in this chapter will consist of a broad overview of a variety of areas within the study of crime and protest. The purpose of the overview is to indicate the range and variety of the general findings of the research on crime, protest and industrial disputes. Where relevant or necessary conclusions from other areas of the study of crime and protest will also be discussed. (For example, because of the relatively few studies on theft and industrial disputes it will be necessary to explore the conclusions of works which have examined other types of protest and theft). This overview will provide the basis from which the specific details of the relationship between crime, protest and industrial disputes can be closely investigated in the remainder of the thesis.

In Chapter Three a detailed examination of certain topics within the international research on crime as protest by strikers will be conducted. This discussion will focus on the specific types of crime which have been used by strikers as acts of protest during industrial disputes and the targets for, motivations for and causes of such offending. The research and examples presented in Chapter Three will be drawn from studies of crime as protest during industrial disputes and from other relevant sources. In Chapter Four there will be a similarly detailed examination of particular aspects of international research on the use of the criminal law during industrial disputes. In Chapters Five and Six the ideas and hypotheses presented in Chapters Three and Four will be tested against the data gathered on crime and criminal prosecutions in Wellington during the 1913 strike.

One of the first researchers to argue that there was some connection between industrial disputes and crime was the criminologist Hermann Mannheim in his study of crime in England between 1919 and 1939.<sup>10</sup> For Mannheim the increases in the official crime statistics for the years of the General Strike (1926) and the strike wave of 1912 are best explained as a result of the economic, political and social turmoil caused by these major industrial disputes. As well as linking large increases in 'typical strike offences' such as intimidation (from 105 charges in 1925 to 994 in 1926) and malicious damage (from 13,711 to 20,301) to the General Strike of 1926, Mannheim agreed with the compilers of the *Criminal Statistics* of 1926 (whom he quotes) that the twenty-one percent increase in the number of simple and

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<sup>10</sup> Hermann Mannheim, **Social Aspects of Crime in England between the Wars**, (London: Allen and Unwin, 1940), pp.153-159.



minor larcenies in 1926 was also largely attributable to the General Strike.<sup>11</sup> Mannheim also noted that 'the national strike of 1912 coincided with a noticeable rise in crimes, particularly against the person and against property without violence'.<sup>12</sup> Though based solely on compiled official statistics, contemporary opinion and a few general histories, and constituting only a small part of his overarching study, Mannheim's discussion is important to the history of the study of crime and mass protest because it was one of the first to critically examine the idea that there was a direct linkage between industrial conflict and criminal activity.

In 1960 Irving Bernstein drew attention to the quantitative impact of industrial disputes on criminal prosecutions in the United States during the late 1920s. 'It is a commentary on the state of labor relations in the late twenties to note the appallingly large number of arrests for felonies (murder, dynamiting, kidnaping [sic], extortion, criminal libel, riot, inciting to riot, assault, malicious mischief, unlawful assembly, sedition, even treason) as well as for misdemeanors (disorderly conduct, obstructing traffic, disturbing the peace, trespass, loitering, assembling without a permit, even selling insurance without a license). In the New York garment strike of 1926, there were 7500 arrests in the first fifteen weeks; in the New York fur strike of that year, 884 arrests and 477 convictions; in the New Bedford textile strike of

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<sup>11</sup> Mannheim and the *Criminal Statistics* of 1926 both suggest that many of these larcenies 'may have been committed not by strikers but by persons who took advantage of the diversion of the Police from ordinary duties' (Mannheim, **Social Aspects of Crime**, p.158).

<sup>12</sup> Mannheim, **Social Aspects of Crime**, p.156.

1928, 2000 arrests; in the Elizabethton textile strike of 1929, 300 arrests in a single day; and so on and on.<sup>13</sup>

Later researchers have extended our knowledge of the connection between industrial protest and crime. The types of crime focused upon in the vast majority of these studies have been highly public acts of violence, such as rioting, assaults on police and strikebreakers, property damage, looting, and arson. Michelle Perrot's research on industrial disputes in France between 1871 and 1890 highlighted the use of window-breaking as protest against the actions of employers, and as one of the two major forms of strike related collective violence in this period.<sup>14</sup> Such violence usually 'resulted from encountering an obstacle; that is, first and foremost, the bosses' resistance. It was their refusal to negotiate, their intransigence, bad faith and volte-faces when they sensed the strike was beginning to weaken, that were at the origin of most of the disturbances.'<sup>15</sup> Perrot also found that strikes with more than 810 participants or which lasted more than 32 days were much more likely to involve collective violence than relatively small or relatively short strikes.<sup>16</sup> The second of the two major forms of collective violence, and the more frequent, were brawls between strikers and those who acted as strikebreakers (whether by their refusal to strike or by accepting employment before the strike had been called off).<sup>17</sup>

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<sup>13</sup> Irving Bernstein, **The Lean Years: A History of the American Worker 1920-1933**, Penguin Books edition, (Baltimore, Maryland: Penguin Books, 1966 [original edition 1960] ), p.204.

<sup>14</sup> Michelle Perrot, **Workers on Strike: France 1871-1890**, (New Haven and London: Yale University Press, 1987), pp.172, 175, 180, 183 and 185 (translated from the French original (1984) by Chris Turner). Also see Perrot, pp.167-172.

<sup>15</sup> Perrot, **Workers on Strike**, p.170.

<sup>16</sup> Perrot, **Workers on Strike**, pp.166-172, and see p.114.

<sup>17</sup> Perrot, **Workers on Strike**, pp.114 and 167.

Philip Taft and Philip Ross chronicled American labour violence from 1877 to the late 1960s, and attempted to account for its frequency and explain its causes.<sup>18</sup> In 1973 Howard M. Gitelman added his own analysis and research to the basis provided by Taft and Ross's study.<sup>19</sup> Both works emphasised the influence the employment of strikebreakers had on the outbreak of violence.<sup>20</sup> Rhodri Jeffreys-Jones explored the causes of labour violence in the United States by concentrating on the explanations offered by Americans in the late nineteenth and early twentieth centuries for industrial violence.<sup>21</sup> Michael Wallace's general survey of violence in the United States concluded that labour (including strikers) 'seldom initiated violence against employers, except to destroy their property'.<sup>22</sup>

The broad range of factors which contributed to the Battle of Orgreave (a violent confrontation between pickets and police during the 1984-1985 British Miners' Strike) have been analysed by David Waddington. His work demonstrates the potential complexity of the causes of industrial violence. That the strike had been defined as a 'threat to democracy' and 'illegitimate', the presence of 'symbolic targets of derision (lorries, strikebreakers)', the recent history of relations between police and strikers, and the occupational

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<sup>18</sup> Philip Taft and Philip Ross, 'American Labor Violence: Its Causes, Character, and Outcome', in Hugh Davis Graham and Ted Robert Gurr (eds), **The History of Violence in America: Historical and Comparative Perspectives**, (New York: Frederick A. Praeger, 1969), pp.281-395.

<sup>19</sup> Howard M. Gitelman, 'Perspectives on American Industrial Violence', **Business History Review**, vol. 47, no.1, Spring 1973, pp.1-23.

<sup>20</sup> Taft and Ross, 'American Labor Violence', pp.294 and 381-382; Gitelman, 'Perspectives on American Industrial Violence', pp.9, 11 and 12. For more details on their arguments also see Chapter Three of the current thesis.

<sup>21</sup> Rhodri Jeffreys-Jones, 'Theories of American Labour Violence', **Journal of American Studies**, vol. 13, no. 2, August 1979, pp.245-264.

<sup>22</sup> Michael Wallace, 'The Uses of Violence in American History', **The American Scholar**, vol. 40, no.1, Winter 1970-71, p.93.

cultures of both the police and the miners ('in which solidarity and toughness were highly valued') all interacted with numerous other factors to generate violence.<sup>23</sup>

J. A. Frank's analysis of four of the violent labour conflicts in Canada between 1968 and 1978 emphasised the importance of five "ingredients" in violent labour conflict. The five factors were '(1) the relative power and organization of the union (or movement in the case of Murray Hill); (2) the aims it pursues; (3) the type of collective action that it employs; (4) the attitudes of the employers and the authorities toward the workers; and (5) the policies and aims of employers, political leaders, and the police.'<sup>24</sup>

Industrial violence in Australia shared some of the characteristics of strike violence in Britain, France and the United States, in particular the hostility and violence directed at strikebreakers. R. B. Walker's study of violence in industrial conflicts in New South Wales in the late nineteenth century concluded that 'intimidation of and assaults on strikebreakers became the most familiar forms of lawbreaking'. Walker, however, considered that 'restraints on the use of violence and its total avoidance in some contentious situations were even more significant. Non-violence as well as violence requires explanation.'<sup>25</sup>

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<sup>23</sup> David Waddington, **Contemporary Issues in Public Disorder: A Comparative and Historical Approach**, (London and New York: Routledge, 1992), pp.94 and 99-107. (The quotes are from pp.106 and 107).

<sup>24</sup> J. A. Frank, 'The "Ingredients" in Violent Labour Conflict: Patterns in Four Case Studies', **Labour / Le Travailleur**, 12, Fall 1983, pp.87-112. (The quote is from p.87).

<sup>25</sup> R. B. Walker, 'Violence in Industrial Conflicts in New South Wales in the Late Nineteenth Century', **Historical Studies**, vol. 22, no. 86, April 1986, pp.55-63. (The quotes are both from p.55).

Not all strikes or lockouts involved violence. Michelle Perrot calculated that in only 3.6 per cent of the 2,923 strikes in France between 1871 and 1890 were acts of 'collective, physical aggression against persons or property committed'. The annual percentages fluctuated between 0.4 per cent and 10 per cent. Perrot counted 'fights among the workers themselves' separately. Reports of 'brawls' between workers were found concerning 165 strikes (5.6 per cent of the total).<sup>26</sup> Edward Shorter and Charles Tilly estimated the proportion of violent strikes in France at 3.2 per cent for 1890-1914, and 'at scarcely 0.5 percent for 1915-35'.<sup>27</sup> Their minimum criteria for considering a strike to be violent was a 'disturbance' during the dispute 'in which (a) at least one group of fifty or more persons took part and (b) some person or object was damaged or seized over resistance.'<sup>28</sup>

Charles Tilly, Louise Tilly, and Richard Tilly's research on Germany found that between 1891 and 1913 there were 'some 31,000 strikes producing 72 violent disturbances'. For the earlier period of 1864 to 1880 they counted 'some 1,200 strikes, 24 of which clearly involved violence.' 'These numbers suggest a decline (from about 5 to 0.25 percent) in strike

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<sup>26</sup> Perrot, **Workers on Strike**, pp.7, 114 and 167.

<sup>27</sup> Edward Shorter and Charles Tilly, **Strikes in France 1830-1968**, (London: Cambridge University Press, 1974), p.378, note 20; and see p.81. For those fluent in French (which does not include myself) Charles Tilly and Edward Shorter, 'Le Déclin de la grève violente en France de 1890 à 1935,' **Le Mouvement Social**, no. 76, July-September 1971, pp.95-118 provides a more detailed discussion of their findings. (This is the reference given by Shorter and Tilly, 1974, p.378, note 20). Gitelman, 'Perspectives on American Industrial Violence', pp.2 and 3 states that Tilly and Shorter, 'Le Déclin', found forty-five violent strikes in France between 1890 and 1914 (of which twenty-nine occurred in the three years 1904-1906), and eight outbreaks of industrial violence between 1915 and 1935.

<sup>28</sup> Shorter and Tilly, **Strikes in France 1830-1968**, p.56 and see p.80. Also see Charles Tilly, Louise Tilly, and Richard Tilly, **The Rebellious Century: 1830-1930**, (Cambridge, Massachusetts: Harvard University Press, 1975), p.313.

violence - a decline which inclusion of strike threats would affect still more'.<sup>29</sup> Their criteria for strike violence was a slightly modified version of the criteria used for Shorter and Tilly's research on France: 'Our quantitative sample defines collective violence as a disturbance of the peace within an autonomous political system (German states excluding Austria) involving physical violence or damage to persons or property by at least twenty persons.'<sup>30</sup>

James E. Cronin analysed strikes and riots in Britain between 1865 and 1914. The pattern over the period was for the number of riots for any cause to decline, and 'for riots and strikes to become distinct, and ultimately antithetical, modes of action. (The exception, of course, was the continuation through 1914 of riots against the use of police and troops to protect blacklegs during strikes.)' From 1865 to 1894 there were fifty-six 'situations in which riots were associated with strikes', but only eighteen from 1895 to 1914.<sup>31</sup> In the latter period 13,478 strikes were officially recorded, and for 1870 to 1894 there were at least 8,645 strikes.<sup>32</sup> Cronin noted that his figures on riots were probably not complete, but the trend over time was still instructive.<sup>33</sup>

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<sup>29</sup> Tilly, Tilly, and Tilly, **The Rebellious Century: 1830-1930**, p.227.

<sup>30</sup> Tilly, Tilly, and Tilly, **The Rebellious Century: 1830-1930**, p.318; and see pp.313 and 318-320.

<sup>31</sup> James E. Cronin, 'Strikes 1870-1914', in Chris Wrigley (ed), **A History of British Industrial Relations 1875-1914**, (Brighton, Sussex: The Harvester Press, 1982), pp.77-78 (the quotes are from p.77). E. W. Evans and S. W. Creigh ('The Natural History of the Strike in Britain', **Labour History**, no. 39, November 1980, p.51) agree: 'In general [between 1893 and 1914] the quiescence of the new unionism meant that stoppages rarely involved violence or bitterness on a scale likely to cause concern.' Evans and Creigh, p.53, note the exception of the major strikes of 1910-1912.

<sup>32</sup> The number of strikes are derived from Table 4.1 in Cronin, 'Strikes 1870-1914', p.76. For the incompleteness of the available data prior to 1888 see Cronin, p.93, note 3, and his Figure 1 (p.92). For 1876 to 1879 the higher count of the two provided has been used. The number of strikes for 1865 to 1869 are not given in

R. B. Walker argued that industrial dispute violence in Australia was also rare in the late nineteenth century.<sup>34</sup> Even in the United States the outbreak of violence during a strike was not a certainty. Gitelman counted fifty violent strikes in the United States between 1890 and 1914 (twenty-two of which occurred in the four years 1910-1913). The total number of strikes from 1890 to 1905 was 30,352, with figures for 1906 through 1913 being unavailable. For 1915 to 1935 Gitelman found forty-four outbreaks of industrial violence, out of 38,941 strikes.<sup>35</sup> These violent strike figures are under-estimates, but the rough size of their proportion of all strikes is still evident.<sup>36</sup> Based on 'the most reliable numerical guide, that of strike mortalities' Rhodri Jeffreys-Jones concluded 'it is clear that American labour violence never attained proportions that were exceptional in international terms. For example, in 1904, one of the peak years for United States strike mortalities, only forty-one men were killed. Thus the number of strike deaths

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Cronin. The focus of his work was 1870-1914. His source on riots (including strike-related riots), however, spanned 1865 to 1914.

<sup>33</sup> Cronin, 'Strikes 1870-1914', p.94, note 13.

<sup>34</sup> Walker, 'Violence in Industrial Conflicts in NSW late 19th C', pp.54-55.

<sup>35</sup> Gitelman, 'Perspectives on American Industrial Violence', pp.2 and 3.

<sup>36</sup> Gitelman, 'Perspectives on American Industrial Violence', p.2, warns the reader: 'All the U.S. violence data employed herein are therefore to be viewed as rough underestimates.' Gitelman, p.2, footnote 4 and p.3, footnote 6 states he derived the figures from the study of Taft and Ross ('American Labor Violence'). Also see Gitelman, pp.1-2 and p.2, footnote 2. Taft and Ross, p.383, note that 'Except for contemporary examples, we have not dealt with the numerous minor disturbances, some of them fairly serious, that were settled by the use of the normal police force.' Taft and Ross's study was also purely qualitative, not involving the more thorough and more time consuming extensive newspaper research which Shorter and Tilly, and Tilly, Tilly, and Tilly used as the basis for their quantitative analyses (see Shorter and Tilly, **Strikes in France 1830-1968**, pp.56-57, 80, 81 and p.382, note 2; and Tilly, Tilly, and Tilly, **The Rebellious Century: 1830-1930**, p.313). For some of the violent strikes not included in Taft and Ross see Sidney L. Harring, **Policing a Class Society: The Experience of American Cities, 1865-1915**, (New Brunswick, New Jersey: Rutgers University Press, 1983), pp.114 and 128-129.

per million Americans was .54. This ratio may be compared with that of .52 for France in 1908, and 2.5 for Wales in 1911.<sup>37</sup>

The relatively small proportion of industrial disputes which involved violence in no way lessens the significance of studying this violence, or searching for violent incidents during specific disputes. Intriguing questions are raised concerning why some strikes are violent and others are not, if strikes by workers in certain occupations were more likely to be violent, the causes of violence in particular disputes, the types of violence which predominate, and the targets for this violence. Answers for some countries or regions over certain periods of time or for numerous individual disputes have been presented by authors such as Michelle Perrot and R. B. Walker (as briefly discussed above). These explanations will be explored in more detail in Chapters Three and Four.

Only a few researchers have examined whether or not theft and other larcenies have been related to periods of industrial disorder. Padraic Kenney argued that petty theft was used as resistance and protest by textile workers both before and after the September 1947 Poznanski Textile Strike in Łódź, Poland. Before the strike 'workers used various types of "indiscipline" to resist the erosion of their position. Petty theft in the factory, which had at one time been a weapon against the Nazi occupiers, and had remained a source of survival in the first years of reconstruction, was now invested with righteousness - stolen goods made up for the income withheld by the state.' After the strikers' defeat 'younger workers, briefly active during the Poznanski

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<sup>37</sup> Jeffreys-Jones, 'Theories of American Labour Violence', p.246.



strike, retreated to a form of individual protest, expressed, again, by theft'.<sup>38</sup>

The role of theft while the strike was in progress was not investigated.

The work of Ted Robert Gurr (which is discussed in more detail below) tentatively suggests that industrial disputes in London in 1919-1920, 1929-1931, 1957 and 1969-1971 and in Sydney in 1886-1888, 1917, 1919 and 1929 may have had some influence on the increase in convictions for theft during the same years or in the immediately following year.<sup>39</sup> Due to the breadth of analysis Gurr conducted and the annual official crime statistics which he analysed it is not possible to reach any firm conclusions concerning the relationship between any of the particular strikes referred to and theft, or if any dispute related theft was most prominent before, during, or after an individual strike.

Further important insights and evidence for those investigating crime and industrial disputes are provided by research which is not specifically focused on industrial protest. One of the most valuable of these studies is Ted Robert Gurr's analysis of crime and periods of mass protest in London, Stockholm, Calcutta and Sydney from the 1750s to the 1970s. The mass protests investigated include industrial disputes and mass protests over non-industrial issues such as food shortages, taxes, suffrage, military levies and conscription. Gurr argued that there is 'more than sufficient reason for expecting a positive but less than perfect connection between crime and [civil]

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<sup>38</sup> Padraic Kenney, 'Working-class Community and Resistance in pre-Stalinist Poland: The Poznanski Textile Strike, Łódź, September 1947', **Social History**, vol. 18, no. 1, January 1993, pp.34 and 50.

<sup>39</sup> Ted Robert Gurr, 'The Comparative Analysis of Public Order', in Ted Robert Gurr, Peter N. Grabosky, and Richard C. Hula, **The Politics of Crime and Conflict: A Comparative History of Four Cities**, (Beverly Hills, California, and London: Sage Publications, 1977), pp.666-668, 670 and 671.

conflict.<sup>40</sup> He listed three reasons for this general relationship. The first and second reasons include crime as protest as well as indicating the influence of more self-gratifying motivations.

One of the most pervasive assumptions of theories of crime and conflict is that both are rooted in social tensions that are manifest in a prevailing sense of anomie, alienation, or discontent. It is plausible to suppose that such states of mind will motivate some to join in collective action and others, depending on their needs and opportunities, to take more individualistic courses of action. A second line of argument is that widespread and prolonged group conflict causes or increases the breakdown of moral order. People in disorderly times are more likely to do what they feel like doing than what others say is right and proper.<sup>41</sup>

Gurr's third factor emphasised the impact on crime and prosecution rates of the official response to strife and dissent. 'Elites faced with real or threatened resistance probably intensify efforts at social control across the board, increasing policing, prosecuting, and punishment.'<sup>42</sup> Gurr's analysis is particularly useful because it highlights the range of motivations which can cause increases in crime rates and criminal prosecution rates during periods of civil conflict. Part of such increases can be explained in terms of crime as protest, but other factors can be equally influential. Consideration of the impact of intensified use of the criminal law and the police by the State and elites is also vital for any study of crime and protest.<sup>43</sup>

The statistical evidence Gurr presented indicates that there is frequently a link between the outbreak of protest and short-term increases in

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<sup>40</sup> Gurr, 'The Comparative Analysis of Public Order', p.667. Gurr includes industrial disputes as one of his types of civil conflict. Most of his discussion is based on an analysis of overall levels of civil conflict

<sup>41</sup> Gurr, 'The Comparative Analysis of Public Order', pp.666-667.

<sup>42</sup> Gurr, 'The Comparative Analysis of Public Order', p.667.

violent crime and theft. 'Objective criteria have been used to identify 29 substantial increases in violent crime, measured mostly by reference to changes in conviction rates. Nineteen of the 29, or 66 percent, coincided with serious internal conflict. Of the increases in theft, thirteen of 25 also coincided with civil strife.'<sup>44</sup> The precise nature of this link is less certain and requires further research, but for Gurr 'there is not much doubt that the correlation reflects the existence of a pervasive and important social phenomenon.'<sup>45</sup> The probable complexity of the link is visible in one of the "crises of public order" Gurr has found in the history of New South Wales. 'The effects of the Depression also are evident in the form of a simultaneous rise in economic crime [theft] and economic protest.'<sup>46</sup> Some of the increase in theft may have been committed as acts of protest (some perhaps in connection with particular protest movements), much was probably a result of increasing unemployment and poverty, with other potential influences including greater vigilance by the police, and less willingness by the victims of theft during a period of economic hardship to overlook or resolve informally (that is, outside the court system) relatively minor thefts.<sup>47</sup>

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<sup>43</sup> See Chapter Four of the current thesis for a detailed discussion of this issue.

<sup>44</sup> Gurr, 'The Comparative Analysis of Public Order', p.674. Also see pp.666-673.

<sup>45</sup> Gurr, 'The Comparative Analysis of Public Order', p.674.

<sup>46</sup> Gurr, 'The Comparative Analysis of Public Order', p.670. The 'economic protest' during the Depression years of 1929-1931 is described on p.671 as 'Major strikes in 1929; recurrent demonstrations, [and] eviction riots ... in [the] early 1930s'.

<sup>47</sup> On the multitude of factors which can cause an increase (or a decrease) in the number of criminal prosecutions, convictions and reported crimes see Gurr, 'The Comparative Analysis of Public Order', pp.666-667 (as discussed and quoted above); Robert Reiner, 'The Case of the Missing Crimes', in Ruth Levitas and Will Guy (eds), **Interpreting Official Statistics**, (London and New York: Routledge, 1996), pp.189 and 194; Clive Emsley, **Crime and Society in England, 1750-1900**, 2nd edition, (London and New York: Longman, 1996), pp.25-34, 36-37, 40-41 and 48-49; and Jennifer S. Davis, 'Prosecutions and Their Context: The Use of the Criminal Law in

David J. V. Jones warns of the difficulty of distinguishing protest crime (or social crime) from offences committed for purely personal gain or private revenge. In his study of Rebeccaism and the Rebecca riots in south-west Wales between 1839 and 1844 Jones commented on the problems he had in 'establishing the motive behind poorly reported offences which could have been simply random acts by opportunist amateurs or professional criminals.' His solution was to discount those offences for which there was a lack of information or which were unlikely to have been acts of protest. The remainder of the cases, Jones argued, 'seem to have had some connection with the Rebecca movement.'<sup>48</sup>

An extensive range of criminal offences were used by the Rebbecaitees of south-west Wales to protest perceived oppression and injustices. Mobs, often in disguise, attacked nearly three hundred tollgates, tollhouses, bars, and chains. In other incidents arson and assaults were committed, and houses, outbuildings, fences, walls, weirs, corn, trees, and equipment damaged or destroyed by mobs. The violence was usually limited and the targets carefully selected. Threatening letters were sent and individuals were intimidated by crowds.<sup>49</sup> 'Even some fairly anonymous cases of burglary, animal maiming, cattle rustling, corn stripping, and the removal of private gates, fences, and houses have the 'Rebecca' hallmark on them. Action such

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Later Nineteenth-Century London', in Douglas Hay and Francis Snyder (eds), **Policing and Prosecution in Britain 1750-1850**, (Oxford: Clarendon Press, 1989), pp.399-402 and 407-426.

<sup>48</sup> David J. V. Jones, **Rebecca's Children: A Study of Rural Society, Crime, and Protest**, (Oxford: Clarendon Press, 1989), pp.258-259, 264 and 309-312 (the quotes are from p.259). Also see David J. V. Jones, **Crime, Protest, Community and Police in Nineteenth-Century Britain**, (London and Boston: Routledge and Kegan Paul, 1982), pp.14-17.

as this was often sanctioned at the night meetings, and carried out by small parties in disguise.<sup>50</sup>

Not all researchers into the criminology of periods of industrial protest and other forms of mass protest have found a connection between crime and mass protest, nor between collective violence and overall levels of crime. Charles Tilly, Louise Tilly, and Richard Tilly examined the statistical trends in crime and the statistical trends in collective violence in France between 1826 and 1962. One of their tests was a comparison of trends in the number of accused (per 100,000 of population) prosecuted for 'major crimes' against persons ('murder, poisoning, infanticide, patricide') and for 'major crimes' against property ('theft, robbery, and willful destruction') with the trends for collective violence. They concluded that 'there is no correspondence at all between these criminal trends and trends in collective violence.'<sup>51</sup> Arrests for vagrancy rose 'dramatically' in the years immediately preceding some of the peaks of collective violence, but 'if there is a connection there, it is mediated and attenuated by other factors.'<sup>52</sup> The figures for total criminal convictions in France had maxima around 1833, 1852, 1894, 1912, 1934, and 1942. 'They are at least in the vicinity of considerable clusters of violence. Their distribution might possibly justify the inference that repression tends to *follow* major upheavals, rather than that outbreaks of crime and collective violence come together. However, the violent years of the 1860s and 1870s were

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<sup>49</sup> Jones, **Rebecca's Children**, pp.199-318, especially pp.201, 249-250, 259, 262-263 and 311-312.

<sup>50</sup> Jones, **Rebecca's Children**, p.264. Also see pp.311-312.

<sup>51</sup> Tilly, Tilly, and Tilly, **The Rebellious Century: 1830-1930**, pp.78-79 (the quotes are from p.79); and see pp.81-83. They define 'major crimes' as 'those prosecuted by the Assize Courts' (p.78).

<sup>52</sup> Tilly, Tilly, and Tilly, **The Rebellious Century: 1830-1930**, p.78.

actually low points for criminal convictions. The turbulent period from 1944 to 1948 produced a significant decline in convictions.<sup>53</sup>

Abdul Qaiyum Lodhi and Charles Tilly (whose data and statistical analysis forms part of the information upon which Tilly, Tilly and Tilly base their findings) also concluded that 'there is no detectable association between crime and collective violence' in nineteenth century France. 'Collective violence fluctuated independently of crimes against property and crimes against persons and much more sharply than either one of them.'<sup>54</sup>

Edward Shorter and Charles Tilly found no statistically significant direct correlation between strikes and collective violence in France between 1830 and 1968. The year-to-year fluctuations in a wide range of variables were compared including the number of strikes, strikers, man-days worth of strikes, incidents of collective violence, participants in collective disturbances, and the mean duration of strikes.<sup>55</sup>

As part of a broader study Peter N. Grabosky analysed the influence of industrial unrest on arrest and conviction rates for various categories of crime in New South Wales between 1914 and 1969. Industrial unrest was measured through 'mandays of work lost in strikes and lockouts per 1000 trade union members, N.S.W.' Six crime rates were considered: the arrest rate for crimes against the person, the conviction rate for serious aggressive crime, the arrest rate for acquisitive crimes against property, the conviction

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<sup>53</sup> Tilly, Tilly, and Tilly, **The Rebellious Century: 1830-1930**, p.78. Italics as in the original.

<sup>54</sup> Abdul Qaiyum Lodhi and Charles Tilly, 'Urbanization, Crime, and Collective Violence in 19th-Century France', **American Journal of Sociology**, vol. 79, no. 2, September 1973, pp.296 and 303 (respectively).

<sup>55</sup> Shorter and Tilly, **Strikes in France 1830-1968**, pp.81-102, and 383-384 (note 8).

rate for serious acquisitive crime, the arrest rate for crimes against sexual morality and custom, and the conviction rate for serious crimes against sexual morality and custom. Grabosky's findings were that there were no statistically significant correlations between his measure of industrial unrest and any of the crime rates. (Five of the six standardised regression coefficients were between -0.00 and 0.03. The sixth coefficient, for the conviction rate for serious aggressive crime, was 0.19, but when the effects of trend over time were controlled for the correlation was no longer significant).<sup>56</sup>

It is clear that no consensus exists among researchers concerning the relationship between crime and mass protest (whether industrial or non-industrial). In some instances mass protests and protest movements have been accompanied by riots, assaults, theft and increases in the number of reported crimes and criminal prosecutions. In other periods or simply for a different strike or demonstration mass protest and crime appear completely unrelated. The only way to determine which possibility is more accurate for a specific context of mass protest is to conduct a detailed case study of that context, as will be done within this thesis for Wellington in 1913.

Additional evidence in the international research in favour of the hypothesis that crime and protest can be linked has been generated from studies of individual or small group protest. A significant number of studies since the late 1950s have convincingly argued that a wide range of criminal

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<sup>56</sup> Peter N. Grabosky, **Sydney in Ferment: Crime, Dissent and Official Reaction, 1788 to 1973**, (Canberra: Australian National University Press, 1977), pp.166-167 and 197, note 3. These results were also published in Peter N. Grabosky, 'Sydney: The Politics of Crime and Conflict, 1788 to the 1970s', in Ted Robert Gurr, Peter N. Grabosky, and Richard C. Hula, **The Politics of Crime and Conflict: A Comparative History of Four Cities**, (Beverly Hills, California, and London: Sage

actions have been utilised as forms of protest by individuals or small groups during periods of high or heightened social tension. In these instances the criminal activities were themselves a major form, if not the main form, of protest. The victims of these protest crimes were usually members of the ruling or dominant groups in a society and the offenders from the ruled or subordinate groups.

Two broad categories of criminal activity are distinguishable within the international research as having been used as “weapons” of protest by individuals or small groups. The first category consists of those overt or public crimes for which, it is argued, the main (or at least a major) purpose of was as an act of rebellion directly against perceived oppressors or their property, or as a more generalised act of protest against injustice and exploitation, or both of the above. In 1959 a theoretical revolution took place in the study of crime and protest: Eric Hobsbawm published his conception of the social bandit. This idea would become one of the most enduring and most investigated concepts in the study of the history of crime. Hobsbawm’s social bandits existed during periods when economic hardship (in particular widespread poverty), and a sense of being oppressed by the dominant groups in rural, pre-capitalist, southern Italian society was prevalent. The social and economic tensions allowed certain individuals, who resisted the ascendancy of the dominant groups through “criminal” means, to be elevated to the status of champions of the people. These “primitive rebels” or social bandits became heroes of the poor because they utilised crime (including theft and violence), as a means of protest against oppression, (though in



some instances social bandits also used crime for more individually utilitarian motives).<sup>57</sup>

Hobsbawm's work has been vital to the study of the history of crime and protest for two reasons. Hobsbawm was the first to explicitly argue that under certain circumstances banditry and its related criminal activities (such as robbery, assault, arson, and other property damage) can be understood as forms of protest, rather than being merely criminal and anarchistic. The second, and more important, reason for the significance of Hobsbawm's study was his realisation that protest, and the crime associated with protest, did not have to involve large masses of individuals demonstrating in public places. The latter conceptual breakthrough allowed and aided the expansion of the study of the history of crime and protest into the area of individual and small group protest. This area of study has proven a rich source of supporting evidence for those who hypothesise a connection between crime and protest.

In the late 1970s Hobsbawm's concept of the social bandit was applied to the Australasian region. The works of John McQuilton and Pat O'Malley

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Grabosky's categories of crime see Grabosky, **Sydney in Ferment**, pp.177-182.

<sup>57</sup> Eric J. Hobsbawm, **Primitive Rebels: Studies in Archaic Forms of Social Movement in the 19th and 20th Centuries**, (Manchester: Manchester University Press, 1959), pp.5-6, 16-17 and 23-25. For a useful summary and discussion of subsequent research on social banditry see Paul Vanderwood, 'Bandits, Real and Imagined: An Introduction to the Theme in Mexican History', in Clive Emsley and Louis A. Knafla (eds), **Crime History and Histories of Crime: Studies in the Historiography of Crime and Criminal Justice in Modern History**, (Westport, Connecticut; and London: Greenwood Press, 1996), pp.229-251, especially pp.231, 235-236 and 238-240. For a recent study (not included in Vanderwood's discussion) which found 'a strong undercurrent of social protest to much of the banditry' in Cavite province in the Philippines in the nineteenth century see Greg Bankoff, **Crime, Society and the State in the Nineteenth-Century Philippines**, (Quezon City, Philippines: Ateneo de Manila University Press, 1996), pp.21 and 64-65 (the quote is from p.65).

suggest that the bushrangers of rural nineteenth-century Australia displayed many characteristics of Hobsbawm's social bandits. McQuilton examined the Kelly Outbreak in northern Victoria of 1878 to 1880. He persuasively asserted that the Kelly Gang's bank robberies and burning of mortgage papers were in large part acts of protest. These protests were against the oppression and poverty it was felt the rural elite (the "squatters") and their allies, the banks and the police, were inflicting upon the lower classes. O'Malley concluded, from a broader study, that the crimes committed by many Australian bushrangers were interpreted, and supported, by the lower classes of their local communities as acts of protest and class vengeance, even if the actual motivation behind the crime was personal financial gain or aggression.<sup>58</sup> Though differing in the specifics of their conclusions the studies of both McQuilton and O'Malley illustrate the existence of a linkage (whether real or psychological) between crime and protest. That this linkage existed within the context of a British colony which as well as being physically and culturally close to New Zealand, shared numerous other similarities, suggests that some type of connection between crime and individual or small group protest may be found in New Zealand.

The second category of crime utilised by individuals or small groups as forms of protest are the type of covert criminal activities James C. Scott labels

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<sup>58</sup> John McQuilton, **The Kelly Outbreak 1878-1880: The Geographical Dimension of Social Banditry**, (Carlton, Victoria: Melbourne University Press, 1979), [1987 paperback edition], pp.2-4, 23, 27, 38, 48, 51-53, 58-59, 61-62, 64, 91-92, 94, 109-111, 116, 118-120, 144-149, 151, 168-170 and 187-190. Pat O'Malley, 'Class Conflict, Land and Social Banditry: Bushranging in Nineteenth Century Australia', **Social Problems**, vol. 26, no. 3, February 1979, pp.271-283, especially pp.271, 273 and 275-279.

as “weapons of the weak”.<sup>59</sup> The criminal “weapons of the weak” are crimes which were conducted covertly with the intention of maintaining the anonymity of the perpetrators, while still inflicting some form of retribution upon an oppressor or as an act of protest (or both). Douglas Hay and Cal Winslow were the first social historians to develop the hypothesis that certain types of covert crime has been used by members of subordinate groups as a means of protest. In his study of poaching in eighteenth century England Hay convincingly argued that retribution for, resistance to and protest against the perceived injustice and infringement upon customary rights of the Game Laws was conducted in large part through the covert crime of poaching. Winslow reached similar and equally persuasive conclusions to Hay’s with regard to the Excise Act and smuggling in Sussex during the 1740s and early 1750s.<sup>60</sup> David J. V. Jones argued that in nineteenth century Wales ‘certain breaches of the Game and Fishery Laws also fell into that hazy divide between crime and protest.’ Traditional rights to game and fish were limited or ended by legislation which was intended to assist landowners in their recreational

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<sup>59</sup> James C. Scott, **Weapons of the Weak: Everyday Forms of Peasant Resistance**, (New Haven and London: Yale University Press, 1985); James C. Scott, ‘Everyday Forms of Peasant Resistance’, **The Journal of Peasant Studies**, vol. 13, no. 2, January 1986, pp.5-35.

<sup>60</sup> Douglas Hay, ‘Poaching and the Game Laws on Cannock Chase’, in Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson, and Cal Winslow, **Albion's Fatal Tree: Crime and Society in Eighteenth-Century England**, (Harmondsworth, Middlesex: Penguin Books, 1975), pp.189-253, see especially pp.200, 207-208, 219 and 228; Cal Winslow, ‘Sussex Smugglers’, in Hay, Linebaugh, Rule, Thompson, and Winslow, **Albion's Fatal Tree**, pp.119-166, see especially pp.120-121, 149 and 159.

Winslow’s work was influenced in part by the ideas of Hobsbawm. This can be seen in Winslow’s discussion of the variety of ways in which Sussex smugglers corresponded to Hobsbawm’s description of social bandits. (See Winslow, pp.157-159).

hunting and fishing. Aspects of this legislation were resented and ignored, 'which turned ordinary people into poachers and poachers into criminals.'<sup>61</sup>

The work of James C. Scott constituted an important addition to and expansion of the field of research first explored by Hay and Winslow. Scott's detailed anthropological study of peasants in late 1970s Malaysia highlighted the importance of a previously under-examined aspect of the study of covert crime utilised as a form of protest by individuals or small groups. His work demonstrated that protest (whether through crime or through other means) can occur even in contexts which experience no or minimal protest of a public nature. Scott described how open and public resistance or demonstrations were not viable or safe forms of protest for Malaysian peasants and small farmers who were experiencing deprivation (first relative, then real) and increasing inequality within their villages as rapid agricultural change took place. He argued that because open protest was impractical these rural Malaysians instead made use of the "weapons of the weak", that is covert and anonymous forms of resistance and protest, some of which were criminal such as petty theft, arson and sabotage.<sup>62</sup> Scott's investigation provides valuable evidence that protest can be enacted through a wide range of activities, criminal and non-criminal, which at first glance appear to have absolutely no connection to protest and widespread discontent.

Scott's research in addition is one of the best examples of the potential connection between common theft (in particular petty theft) and protest.<sup>63</sup>

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<sup>61</sup> Jones, *Rebecca's Children*, pp.173-175. (The quotes are from pp.173 and 174 respectively).

<sup>62</sup> Scott, 'Everyday Resistance', pp.6, 8, 10-12 and 14-22.

<sup>63</sup> A distinction is drawn here between the common theft of clothing, money, food, jewellery, valuables or other similar goods, and such forms of larceny as

Scott suggested that the theft of paddy (rice in the husk) was used by some poor rural Malaysians as one form of protest against, and retribution for, the ending of such customary rights as *zakat* (the Islamic tithe) bonuses to harvest labourers and small loans and gifts, given by the elite to the peasantry; these changes were part of a broad range of social and economic alteration occurring during this period.<sup>64</sup> In contrast to Scott the linkage between common theft and protest is not examined by most researchers of crime and individual or small group protest; largely because it is overshadowed by the more obvious and more easily proven connection between violence or violent crime and such protest.

Even among those researchers who suggest that common theft and individual or small group protest can be related, some only imply that an association exists between protest and theft. For instance, Winslow stated that house-breaking (burglary) was used during the same period as smuggling as another aspect of a general defiance of authority, but does not

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poaching and smuggling. Hay ('Poaching', pp.207-208) argues that a sharp differentiation was made within rural communities in eighteenth century England between legitimate types of larceny and common (or casual) theft. He states that there were very strong communal sanctions against casual theft, though the appropriation of certain goods through such practices as smuggling, poaching, or coal miners taking coal as perks were legitimised, because the goods involved were sharply distinguished from other property. The popular view was that only the gentry lost from such acts as poaching, but that loss by casual theft was a common occurrence at every social level. This thesis agrees with the division Hay has made between types of larceny. This distinction is also useful and necessary for the current examination of the international research on the study of crime and protest because such crimes as poaching and smuggling are limited to specific regions and time periods, whereas common theft is universal. Instances of the two different types of larceny being used as forms of protest need to be distinguished and analysed separately.

<sup>64</sup> Scott, 'Everyday Resistance', pp.11-12 and 19-21. Also see Scott, **Weapons of the Weak**, chapter 7 for his discussion of other types of theft used as forms of protest and resistance.

explicitly argue that this type of common theft was used as an additional form of protest.<sup>65</sup>

Several researchers have argued that common theft has been used by members of oppressed groups as a permanent form of resistance, rather than purely as a means of protest during a limited period of high or heightened social tensions. James C. Scott is one of the foremost proponents of such an argument, though he also believes (as described above) that the quantity of theft may increase during periods of heightened class, economic or social tension.<sup>66</sup> Alex Lichtenstein concluded that for slaves in the American South theft was a form of economic or proto-political resistance to slavery. 'For the slaves ... the theft of food was not just a matter of diet. The struggle to control and define the right to sustenance was a question of power'.<sup>67</sup> David Barry Gaspar considered theft to be one of the 'weapons' of 'day-to-day resistance' 'possessed and used' by slaves in Antigua.<sup>68</sup> In a later essay Lichtenstein argued that pilfering as resistance continued after the end of slavery in the American South. Petty theft 'was, for black plantation workers, a distinctive tool of resistance to sharecropping and other inequitable forms of postbellum land tenure and labor.' Rural blacks, in particular sharecroppers,

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<sup>65</sup> Winslow, 'Sussex Smugglers', pp.120 and 154-155.

<sup>66</sup> Scott, 'Everyday Resistance', pp.11-12 and 18-22, especially pp.19-20.

<sup>67</sup> Alex Lichtenstein, 'That Disposition To Theft, With Which They Have Been Branded: Moral Economy, Slave Management, and the Law', **Journal of Social History**, vol. 21, no. 3, Spring 1988, pp.418 and 421 (the quote is from p.418).

<sup>68</sup> David Barry Gaspar, 'Antigua Slaves and Their Struggle to Survive', in Herman J. Viola and Carolyn Margolis (eds), **Seeds of Change**, (Washington, D.C.: Smithsonian Institution Press, 1991), pp.130-131, quoted in Sidney W. Mintz, 'Slave Life on Caribbean Sugar Plantations: Some Unanswered Questions', in Stephan Palmié (ed), **Slave Cultures and the Cultures of Slavery**, (Knoxville: University of Tennessee Press, 1995), p.16.

'often employed it [theft] to acquire or maintain their economic independence from whites, as they had when enslaved'.<sup>69</sup>

Each of these cases of 'everyday resistance' through minor theft is further evidence that theft can be more than simply an act of need, greed, mischief, or malice. The difference between limited term protest against oppression and permanent resistance to such oppression is not that great when it is enacted through covert forms of crime such as theft: the means are the same; the risks are similar; and the overall impact of each crime is generally minor. As such, those studies which argue that 'everyday resistance' against oppression has been enacted through common theft provide additional, if slightly indirect, support for the premise that theft has the potential to be utilised as a "weapon" of protest during periods of high or heightened social tensions.

International research over the last forty years has clearly generated a wide range of hypotheses concerning the relationship between crime and individual or small group protest. Each hypothesis is supported by extremely persuasive evidence obtained from extensive and detailed case studies. These hypotheses generally compliment each other and, taken as a whole, suggest that during periods of high or heightened social tension a connection often exists between crime and protest, though the exact relationship varies between theories and between contexts. The work on crime as a potential form of protest by individuals or small groups also compliments the research

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<sup>69</sup> Alex Lichtenstein, 'Theft, Moral Economy, and the Transition from Slavery to Freedom in the American South', in Stephan Palmié (ed), **Slave Cultures and the Cultures of Slavery**, (Knoxville: University of Tennessee Press, 1995), pp.176-186. (The quotes are from pp.177 and 184 respectively).

focused upon the relationship between crime and industrial or non-industrial mass protest.

The overall conclusion which can be drawn from the broad historiography of crime and protest (which includes a significant number of criminological, sociological, and political science analyses focusing upon historical contexts) is that this field of research is both valid and active: with a continuously expanding body of research, with ongoing debate, and with the continual modification and reworking of theories to explain different contexts. The potential for further research is also considerable, including on the history of crime and industrial protest in New Zealand.

The connection between crime and protest in New Zealand during industrial disputes has received relatively little attention from New Zealand historians. Nick Fahey's undergraduate research essay which examined violent crime and disorder prosecuted during the 1913 General Strike in Wellington has been the only detailed study specifically focused upon the relationship between crime and industrial conflict.<sup>70</sup> Fahey found that during the dispute there was a significant increase in the number of criminal prosecutions for violence and serious public disorder. The vast majority of the increase was caused by crimes which were clearly identifiable as being directly related to the strike. These strike related crimes usually involved special constables or regular police as the victims, or were acts of defiance

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<sup>70</sup> Nick Fahey, 'Violent Crime and the 1913 Wellington Waterfront Dispute: A Micro-history of Crime and Conflict', (unpublished HIST 316 research essay, Victoria University of Wellington, 1996). The current thesis will utilise a different and broader selection criteria for the crime data collected than Fahey, will analyse the data using different statistical techniques, and will, in general, test different hypotheses, though utilising the same criminal records as the central primary source for 1911 to 1913.



directed at the authorities with no actual victim (except, perhaps, “public order” as it was defined by the authorities).<sup>71</sup>

Valuable, but more broadly focused, treatments of the disorder experienced during major industrial disputes and the response of the state and the police to these events can be found in the work of Richard Hill (concerning the nation-wide strikes of 1890 and 1913, and the Waihi Strike of 1912), Erik Olssen (writing about the disputes of 1912 and 1913), R. J. Campbell (on the 1912 Waihi Strike), and of Sherwood Young (concerning the waterfront dispute of 1951).<sup>72</sup> Stanley Roche’s ‘informal account’ of the 1912 Waihi Strike provides important information on crime, criminal prosecutions and policing during the dispute.<sup>73</sup>

The discussion and analysis of crime related to the 1913 strike in the works of Hill and Olssen focused largely upon the riots. Apart from the charges against the strike leaders only brief mentions were made in their works of the criminal prosecutions or the sentences those convicted received. The potential use of obscene language, insulting behaviour, desertion, or theft as forms of protest and social conflict were not examined. Hill’s study provides a detailed analysis of the policing strategies implemented during the strike, but the use made of the power to arrest and prosecute was not investigated except for the charges against the strike leaders and the

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<sup>71</sup> Fahey, ‘Violent Crime and the 1913 Wellington Waterfront Dispute’, pp.17, 28-29 and 35.

<sup>72</sup> Hill, **The Iron Hand in the Velvet Glove**, pp.2-3, 71-75, 274, 283-295 and 304-323; Olssen, **Red Feds**, pp.153-160, 180-198, 200 and 208; R. J. Campbell, ‘The Role of the Police in the Waihi Strike: Some New Evidence’, **Political Science**, vol. 26, December 1974, pp.34-40; Sherwood Ivan Young, ‘The Activities and Problems of the Police in the 1951 Waterfront Dispute’, (unpublished MA research essay, University of Canterbury, 1975).

accuracy of allegations that certain regular constables (who were allegedly in sympathy with the strikers) had 'shirked their work' by choosing not to arrest rioters.<sup>74</sup>

Campbell's article contains a useful summary of the criminal prosecutions and sentences related to the 1912 Waihi strike.<sup>75</sup> The details which could not be included in a three paragraph summary warrant additional research and analysis. The nature of the 'various offences', the victims, the proportion of all prosecutions which concerned a particular type of charge (for example, assault or obscene language), and the context of the incidents from which these charges arose intrigue those interested in crime and protest. Olssen's analysis of the prosecution of the leaders of the striking union presents a glimpse of the events and actions which were considered by the police to be disorderly, illegal, and to warrant prosecution.<sup>76</sup> Roche provided detailed and entertaining descriptions of the court proceedings arising from the Waihi strike.<sup>77</sup> Campbell, Hill and Roche each discussed at length the events at the Miners' Hall on 12 November 1912 which resulted in the death of Frederick Evans, a striker. Olssen's work contains a one paragraph summary of the disturbance.<sup>78</sup> Campbell, Hill, Olssen and Roche also each mentioned, in varying degrees of detail, reports of other disorderly or violent

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<sup>73</sup> Stanley Roche, **The Red and the Gold: An Informal Account of the Waihi Strike, 1912**, (Auckland: Oxford University Press, 1982), pp.80-131.

<sup>74</sup> Hill, **The Iron Hand in the Velvet Glove**, pp.305-321; Olssen, **Red Feds**, pp.180-198, 200 and 208.

<sup>75</sup> Campbell, 'The Role of the Police in the Waihi Strike', p.37 (including note 20) and p.38, note 25.

<sup>76</sup> Olssen, **Red Feds**, p.155.

<sup>77</sup> Roche, **The Red and the Gold**, pp.85-90, 92-94, 98 and 100-101.

<sup>78</sup> Campbell, 'The Role of the Police in the Waihi Strike', pp.38-40; Hill, **The Iron Hand in the Velvet Glove**, pp.288-291; Roche, **The Red and the Gold**, pp.117-131; Olssen, **Red Feds**, p.159.

incidents related to the strike. Their discussions of such incidents were not intended to be exhaustive or to systematically analyse all disturbances or prosecutions.

Policing strategies used during the 1951 waterfront dispute were the central focus of Young's research. The use made of criminal prosecutions was not considered.

The relationship between crime and protest during periods of industrial dispute is an important, though as yet only partly explored, area in both the historiography of industrial relations and the historiography of crime in New Zealand. The uses made of the criminal law during industrial disputes (through arrests, prosecutions, verdicts, sentences, and jury trials) also require further research. This thesis is intended to go some way towards alleviating this lack of historical knowledge.

This thesis seeks to determine the connection, if any, between industrial protest and the crime committed during New Zealand's 1913 General Strike. The uses made of the criminal law in response to this period of social tension and civil strife will also be examined. As has been demonstrated (and will be demonstrated in greater detail at the start of Chapter Five), the strike was a time of great social tension and overt social conflict. This thesis will analyse the extent to which protest was simultaneously conducted through legal methods, which included strikes, picketing and chanting, and through illegal actions such as violent crime and theft. The types of crime which were used as protest, the context and frequency of these incidents, and who were the accused and the victims of these crimes will be investigated. The possibility that the ways in which the

criminal law was implemented changed in response to the strike will also be considered.

To analyse the relationships between crime, protest, the uses of the criminal law and the 1913 strike a case study has been conducted of one of the major New Zealand ports of the period, Wellington. One city alone has been chosen to make the research manageable. Wellington has been chosen because it was one of the two centres in which the strike began (the other centre was the coal mining town of Huntly) and the location of the first, the most numerous, and the most violent disturbances.<sup>79</sup> In addition, the Minister of Justice, Alexander Herdman, considered Wellington to have been 'the real centre of the struggle'. 'It was recognised from the outset that if the trouble could be stamped out here it would gradually diminish in other places.'<sup>80</sup> Wellington also had the largest watersiders' union in the country with 1531 members in 1911, and about 1600 striking watersiders in 1913.<sup>81</sup> Erik Olssen's research on New Zealand watersiders in the years immediately preceding the 1913 strike found that 'the sub-culture of the youthful wharfies' was 'characterized by a high degree of transience, violence, gambling, and control of their own work patterns'. This 'not only made wharfies quick to

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<sup>79</sup> See Hill, **The Iron Hand in the Velvet Glove**, pp.305 and 308-319; and Erik Olssen, 'The Great Strike of 1913', **New Zealand's Heritage**, vol. 5, part 73, 1973, pp.2023-2024.

<sup>80</sup> Both quotes are from Herdman's telegram in reply to a telegram from C. J. Parr, Mayor of Auckland, to Herdman, 04 December 1913. ('1913 Strike - North Island File' - held at Archives New Zealand, Wellington - AAAC - W3539 / 52b). Herdman's telegram in reply is not dated but appears to have been sent on 04 December 1913. Also quoted in Hill, **The Iron Hand in the Velvet Glove**, p.305.

<sup>81</sup> Olssen, **Red Feds**, p.224 (1911 figure); and Hill, **The Iron Hand in the Velvet Glove**, p.305 (1913 figure). The membership in 1911 of the Auckland watersiders' union was 796, with 428 in the Lyttelton watersiders' union, and 386 in the Dunedin watersiders' union (Olssen, **Red Feds**, p.224).

anger but, as the men joined the union, became a source of solidarity.'<sup>82</sup> These factors suggest that if violence was used as a form of protest anywhere in New Zealand the most likely place for it to have been used was Wellington.

It must be noted, though, that Wellington cannot be taken as typical of the New Zealand situation as a whole. Each port produced different experiences of the strike, depending on the number of strikers, the number of striking unions and other less quantifiable variables such as the policing strategies adopted by the senior local police officials, and the willingness of strikers to resort to violence.<sup>83</sup> For example, Wellington experienced the most violent and the most frequent confrontations between strikers and special constables. The level of violence in Auckland was also high, but Christchurch experienced relatively few confrontations and there were no major incidents in Dunedin or on the West Coast.<sup>84</sup> The size and scale of the strike also varied considerably throughout the country. Auckland produced the largest number of strikers, especially during the two weeks of its general (all unions) strike, Wellington was close behind, while the strikes in Christchurch and Dunedin

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<sup>82</sup> Olssen, **Red Feds**, p.86.

<sup>83</sup> See Hill, **The Iron Hand in the Velvet Glove**, pp.305-319; Olssen, **Red Feds**, pp.190, 193 and 196-199; and see footnote 85 below. The difference between the ports in their experience of the strike is also clearly evident in the scenes reported in the strike columns of **The Dominion**, **The Evening Post** and **The New Zealand Times** throughout the strike.

<sup>84</sup> Hill, **The Iron Hand in the Velvet Glove**, pp.308-319. For a valuable discussion of the different experiences of the 1913 strike in Auckland, Wellington, Christchurch, Dunedin and on the West Coast see Innes Moffat, ' "Let all Hands Wade in with Batons": A Study of the Enrollment and Composition of the Special Constables who Volunteered in the South Island during the 1913 Waterfront Strike', (unpublished BA Hons research essay, University of Otago, 1992), especially pp.vi-vii, and 16-63.

were relatively small-scale.<sup>85</sup> As such, any conclusions reached by this study cannot be directly applied to the conflicts in other New Zealand ports and mining towns without further research, though it is likely a similar pattern would emerge, given New Zealand's relatively small size and the influence in each of the strike centres of the United Federation of Labour and its supporters.

The focus of this case study will be on three types of crime which were the most likely to be influenced by social tensions, if social conflict took the form of crime in these periods of industrial unrest: those crimes involving violence, and those involving theft, (as means of protest and conflict both against the person and against the property of those who opposed the strike or who were perceived to be attempting to defeat the strike); and thirdly, all other crimes committed against the State, the enforcers of its laws, and the State's definition of "public order" of a serious or criminal nature.<sup>86</sup> All crimes

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<sup>85</sup> Pettit, **Wellington Watersiders**, p.60 cites Hancox and Hight's ('The Labour Movement and the Strike of 1913 in New Zealand', **The Economic Journal**, June 1914) estimate that in Wellington there were about 6,000 men in all out on strike, including drivers, seamen, building labourers and waterside workers. Roth, **Trade Unions in New Zealand**, p.38 provides the figure of 7,000 strikers during the height of the general strike in Auckland. Given Martin's and Roth's estimates of 14,000 and 16,000 strikers nationally (see p.2, footnote 3 above), then the numbers of strikers in Christchurch and Dunedin must have been relatively small. Especially considering that Roth (p.38) states there were 4,000 miners on strike as well, most of whom would not have been included in the figures for the four major port cities. Because these separate figures do not tally it would appear that some of these estimates are incorrect, but the general trend and ratios described are probably accurate.

For the different experience of the 1913 Strike in Dunedin as compared to other New Zealand ports see Erik Olssen, **A History of Otago**, (Dunedin: John McIndoe, 1984), pp.117, 119 and 120.

<sup>86</sup> The distinction made in this category is between crimes which could conceivably be, or obviously were, forms of social conflict or perceived threats to the hegemony and power of the State, such as rioting, illegal assemblies, obscene language, resisting arrest, and obstruction; and public nuisance type offences, such as drunkenness, disorderly conduct while drunk, indecent behaviour, and traffic law

of violence, larceny, or anti-state actions which were committed during the dispute, and brought before the Magistrate's Court in Wellington, will be investigated for any evidence that these crimes were used as a means of protest or social conflict.<sup>87</sup> The two year period before the strike started has also been examined, data collected and analysed on the same range of crimes, to provide a set of comparative data for the analysis.

Before any analysis is undertaken, the methodology which determined the selection and classification of the data collected will be discussed; this will constitute Chapter Two. In Chapters Three and Four six hypotheses on the connection between protest, social conflict and crime will be developed and described. Chapters Five and Six will test the explanatory power of these hypotheses for the 1913 General Strike using quantitative and qualitative data gathered concerning the crimes prosecuted in Wellington during this dispute. Reports of crimes for which there were no prosecutions will also be considered.

The first three of the six hypotheses which form the central components of this analysis will focus upon whether or not crime was utilised by strikers as a weapon in their industrial struggles with employers, strike-breakers, the State, and others who opposed (or were perceived to be

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violations. The former could be utilised as effective means of protest or social conflict, while the latter would in almost every instance be of absolutely no influence or impact.

<sup>87</sup> The geographical definition of Wellington crime includes all crimes heard by the Wellington (City) Magistrate's Court which were committed in Wellington city and suburbs itself, in the immediate Wellington rural district, and in the close and accessible Hutt electorate which incorporated the minor population centre of Lower Hutt. Crimes committed on ships while in port in Wellington, or on ships travelling between another port and Wellington have also been included. The rest of Wellington Province has been excluded since these cases were usually dealt with by subsidiary courts, and these crimes were unlikely to have been influenced by a waterfront

opposing) the strikers' efforts. These three hypotheses will examine the applicability to the New Zealand context of three conceptions of how protest and social conflict could be manifested through crime: first, the idea of crime as a form of protest against employers; secondly, violent vengeance against strike-breakers; and thirdly, protest against the State through crime.

The remaining hypotheses will examine the ways in which the criminal law has been implemented by the State and those in positions of power. The first of these hypotheses will analyse whether "prosecution or persecution" is the more accurate term to describe criminal prosecutions by the police during industrial struggles. The second hypothesis will investigate the concept of a judicial "crackdown" on offending during a period of public anxiety and tension. Magistrates and judges had the power to exercise considerable discretion in the severity of the sentences they imposed and in their verdicts in cases in which the accused pleaded not guilty and was not tried by a jury. Finally, the ways in which governments have used or modified the criminal law in response to industrial disputes will be examined. Violence by police during industrial disputes will also be discussed in Chapter Four.

These explorations into theories of protest and social conflict will allow the linkage, or lack there of, between industrial protest and the crime committed during the 1913 strike to be determined. Hopefully, these explorations will also be of benefit to others interested in crime and the use of the criminal law during industrial disputes; perhaps as a framework, or part of a framework, for future research. This is the second focus of this thesis. The international examinations of crime as protest by strikers (Chapter Three) and

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dispute, being mainly inland towns and rural districts far from the port city.



the uses which have been made of the criminal law during industrial disputes (Chapter Four) are not intended to be definitive. The purpose is to bring together information from a wide range of industrial disputes and authors and by presenting these conclusions and evidence thematically to indicate the possible ways in which strikers could protest through crime and the criminal law could be applied by the police and the judiciary. Research on the use of the criminal law during industrial disputes is rare and the available analyses are usually scattered throughout more general works on specific industrial disputes or the policing of industrial disputes. The discussion and analysis in Chapter Four was thus particularly needed to begin the process of drawing together data on this under-examined aspect of the histories of protest, industrial disputes, policing, crime, and the uses made of the criminal law.

## Chapter 2

### **Methodology**

Any study which involves a great deal of quantitative material gathered by the researcher needs to have the methodological foundations of its research explicitly stated. This is the focus of this chapter.

This chapter has two purposes. The first purpose is to discuss the methodology which has been used in this thesis to research crime committed in Wellington during the 1913 strike and in the two years prior to the strike. The second intention is to describe the method by which individuals were allocated to occupational categories. General methodological issues affecting research into crime and policing will be examined, as will the specific methodological issues involved in studying Wellington between 1911 and 1913.

The structure of this chapter will be to first introduce the type of crimes this study is focused upon. Secondly, the nature and merits of the major primary sources available and used will be discussed. Thirdly, the methodology by which this primary data was collated into the sets of information which are analysed in detail in Chapters Five and Six, will be described.

Three types of crime form the main focus of this thesis: violent crime, larceny, and thirdly, crimes against the State, the enforcers of its laws, and the State's definition of "public order" of a serious or criminal nature.

The criterion for the selection of the violent crimes was any crime which involved violence that could have been in some way utilised as a form of social conflict or retribution. This definition allowed crimes involving

property damage, breaking the peace, and the use or threatened use of firearms to be classified in the same general category as more traditionally recognised forms of violent crime such as assault, murder, and fighting.

The small number (one and fifteen, respectively, during the strike and pre-strike periods) of prosecuted cases of sexual assault and rape are not included in this analysis. This is because sexual crimes involve a different and wider range of variables than other violent crimes, and are of a complexity which need to be studied separately. It is highly unlikely that the major motivation of sexual crime was as an act of social or industrial protest. It protects the statistical validity of this research to exclude such anomalous data. Disorderly behaviour, abusive language and lunacy charges have also been excluded from this analysis, unless the behaviour led to violence, resisting arrest (an offence against the enforcers of the State's laws) and/or property damage.

All theft or attempted theft which was prosecuted in the Magistrate's Court has been included in this study.

The third category of crime was in part created from the categories of violent crime and theft: those crimes which involved offences against the State or the enforcers of its laws, whether they were police, military, government departments or the "good order" required by the State. Any crime involving the State as the victim (for there were no cases where the State was the accused) whether it was of violence, breaking the peace or theft was included in this third list, while remaining concurrently in the violence or theft category. All other crimes which could be considered as potential forms of anti-State action were also incorporated into this third category.

Such offences include those which did not lead to physical violence but threatened physical violence in the view of the enforcers of the law: such as threatening or insulting behaviour (or language) with the intent to provoke a breach of the peace.

Also incorporated into the third category are actions which threatened the power and ascendancy of the State and the police, (though no specifically violent actions against individuals or specific property were necessarily able to be proven, and as such there were no individual victims),<sup>1</sup> which included rioting, unlawful assembly, inciting violent actions against the forces of the State, or seditious language. Also included are instances of minor violence against police officers which could not be considered as assault, such as resisting arrest and obstruction. The last major category of potential anti-State crime considered was abusive or obscene language, specifically prosecuted by the police; presumably since they or their superiors saw such actions as a breach of civil order and the "public peace".<sup>2</sup> This third category in its entirety will be used to analyse the extent and forms of protest against

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<sup>1</sup> It is this distinction that has led to these crimes not being grouped as violent crimes. The main (and often only) victim was the State and society in general terms.

<sup>2</sup> Any cases of abusive or obscene language which were taken to Court by individuals, and not by the police, have been excluded from this analysis. The number of such private prosecutions was reasonably small (much less frequent than prosecutions by the police) and they largely seemed to be disputes within families or extended families or between those living in close proximity to each other. These cases were often not taken overly seriously by anyone involved, with the prosecutor failing to appear in court on a number of occasions, adjournments of months at a time were repeatedly granted, and the majority appear to have been (eventually) withdrawn by the parties or dismissed for want of prosecution or want of evidence. They were in effect more civil matters than criminal ones (though the law stated that they were to be tried in criminal hearings), and the judiciary treated them as relatively non-serious and non-criminal matters. Thus, they are not relevant to be included in a study of social and industrial protest through crime.

the State through crime during the strike.<sup>3</sup>

There are three major types of sources of information on crimes committed in Wellington between 1911 and 1913: the criminal court records, the local daily newspapers, and the *New Zealand Police Gazette*.<sup>4</sup> Some other police records do survive and are of use but the most useful police sources on individual crimes, the Police Charge Books, have been destroyed.

The main source of information on the crimes committed in Wellington is the Wellington Magistrate's Court Criminal Record Books. This source provides a complete record of all crimes prosecuted by the police or private individuals in the Wellington city, suburban and immediate rural region, as well as some crimes committed in the Hutt electoral district.<sup>5</sup>

These official unpublished records do not, however, provide any information on crimes where no one was ever prosecuted for the offence. There is also the problem of unreported crime. It is impossible for social historians or criminologists to determine the total level of crime in any society because of uncertainty over how large a proportion of crime is actually reported and how this varies over time and between areas. Only crime that is

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<sup>3</sup> See the section of Chapter Five entitled 'Protest Against the State through Crime'.

<sup>4</sup> The criminal court records are the Wellington Magistrate's Court Criminal Record Books, and the Wellington Supreme Court Return of Prisoners Tried and Sentenced.

The daily newspapers are **The Dominion**, **The Evening Post**, and **The New Zealand Times**. Additional information on some Wellington criminal prosecutions is provided in **The New Zealand Truth** (a weekly newspaper published in Wellington and distributed throughout New Zealand). **The Maoriland Worker's** coverage of the Supreme Court trials of the strike leaders is also worth consulting. (**The Maoriland Worker** was a weekly newspaper published in Wellington and distributed throughout New Zealand).

<sup>5</sup> For the geographical definition of Wellington used to gather information on the crimes committed in Wellington see Chapter One, footnote 87 (pp.37-38).

reported and/or prosecuted can be statistically studied. Unreported crime is also known as the “dark figure” or “grey area” of crime.<sup>6</sup>

Even given these limitations the Criminal Record Books are an extremely valuable source, as well as being the best available. The entries in the Criminal Record Books contain a wealth of information useful to the social historian of crime. These details includes the names of the accused and the victims, specifics of the crime (date, location, type of offence, and value and type of items stolen or damaged), as well as the magistrate, plea, verdict and sentence (if any) for the crime.<sup>7</sup> The one major piece of information, vital to any analysis of social conflict, almost never recorded in the Court records is the occupation of either the accused or the victim.<sup>8</sup>

A second set of Court records for the most serious of offences exist in the Supreme Court Return of Prisoners Tried and Sentenced. These higher

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<sup>6</sup> For discussions of these problems see Reiner, ‘The Case of the Missing Crimes’, pp.188-189; Emsley, **Crime and Society in England, 1750-1900**, 2nd edition, pp.24, 30 and 153; Jones, **Crime, Protest, Community and Police in Nineteenth-Century Britain**, pp.2-3; and George Rudé, **Criminal and Victim: Crime and Society in Early Nineteenth-Century England**, (Oxford: Clarendon Press, 1985), p.3. Also see the three references provided in footnote 2, p.171, of P. J. R. King, ‘Prosecution Associations and Their Impact in Eighteenth-Century Essex’, in Douglas Hay and Francis Snyder (eds), **Policing and Prosecution in Britain 1750-1850**, (Oxford: Clarendon Press, 1989). For two particularly useful discussions of why many crimes were not reported or not prosecuted also see Davis, ‘Prosecutions and Their Context: The Use of the Criminal Law in Later Nineteenth-Century London’, pp.399-402 and 407-426; and Jones, **Rebecca’s Children**, pp.158-160, 166, 170, 171, 172, 178 and 182-183. These last two works add social context and social explanations to the statistical explanations provided by many other researchers. For a New Zealand perspective see Graeme Dunstall, **A Policeman’s Paradise? Policing a Stable Society 1918-1945**, (Palmerston North: Dunmore Press, 1999), pp.4, 132-134 and 397 (note 7).

<sup>7</sup> Unfortunately for those interested in studying crime and criminal prosecutions during the 1890 Maritime Strike the Wellington Magistrate’s Court Criminal Record Books only survive from 1893 onwards.

<sup>8</sup> The exceptions to this usual lack of occupational data include police constables, prostitutes, and seamen who deserted their ships.

court records do not provide any extra details than those contained in the Magistrate's Court Criminal Record Books, but they list the outcome and sentence (if any) of cases which are referred to the Supreme Court, and occasionally list an occupation not noted in the lower court records.

Local daily newspapers in early twentieth century New Zealand often provided a wealth of details on crimes prosecuted in the local courts. Nearly every day there was a report (often lengthy) on the proceedings in the district's courts, both Magistrate's and Supreme. Crime and judicial proceedings clearly fascinated newspaper readers, even more so than they do today. Sometimes the reports on specific cases were brief, just giving the name of the accused and victims, type of offence, verdict and sentence (if any). Frequently, however, there was an in depth account of the hearing or trial, the family background, occupation and motives of those involved and lengthy descriptions of the crime itself (information which was not entered into the court records).

Newspaper coverage of prosecutions is not as thorough as that provided by the Magistrate's Court Criminal Record Books, but the coverage is still substantial. For the 1911-1913 case study there were newspaper reports on nearly all of the 1757 relevant criminal prosecutions gathered from the Criminal Record Books.<sup>9</sup>

The *New Zealand Police Gazette*, published weekly, lists by prison all those who were released from gaol each week, and lists by Magistrate's

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<sup>9</sup> For a period forty years earlier Caroline Daley, 'Interpersonal Conflict in Colonial New Zealand - A Study of Violence and Civil Litigation in Wellington, 1870-1872', (unpublished BA Hons research essay, Victoria University of Wellington, 1986), p.7, estimated that the reportage rate of Wellington prosecutions for violent crime by **The Evening Post** between 1870 and 1872 was 75%.

Court most of those individuals who were convicted but were not required to serve a term of imprisonment. The details within these listings include the occupation and previous convictions of the accused. The *New Zealand Police Gazette* is an invaluable source of information on the occupation of the vast majority of those convicted of Wellington crimes.<sup>10</sup>

Research using the Court records, local newspapers and the *New Zealand Police Gazette* does not provide the occupations of all of those involved in the specific crimes under investigation. The use of further primary sources are needed to fill in these gaps. Two major sources provide additional information for analyses of the occupational relationship of the victims and the accused: the *Electoral Rolls*, and *Wises Street Directories*.<sup>11</sup> The *Electoral Rolls* provide occupation and address for both victims and accused with relatively uncommon names, as do the *Wises Street Directories*. Both the *Electoral Rolls* and *Wises Street Directories* have problems as historical sources, but if they are used carefully the information they contain

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<sup>10</sup> The released from gaol lists of the *New Zealand Police Gazette* also record the occupation of those accused who were committed to the Supreme Court for trial and were released on bail after spending time in prison waiting for their bail requirements to be arranged and approved, but who were subsequently not convicted.

<sup>11</sup> The rolls for the election held in December 1914 for the six electoral districts in the Wellington region (the four Wellington city electorates, Wellington Suburbs and Country District, and the single Hutt electorate) contain over 54,000 names. The four Wellington city electoral districts were Wellington Central, Wellington East, Wellington North, and Wellington South - all were classified as solely urban areas. Wellington Suburbs and County District incorporated the rest of what is today suburban Wellington (including the Miramar Peninsula, Khandallah and most of Kaori) and extended past Porirua to Pukerua Bay (incorporating Johnsonville and Tawa). This electorate was classified as 78% urban, 22% rural. Hutt electorate covered Lower Hutt, Upper Hutt, Petone, and Eastbourne, and contained a similar urban-rural split (75% to 25%) as Wellington Suburbs and Country District. (Source: Alan McRobie, *New Zealand Electoral Atlas*, (Wellington: GP Books, 1989), pp.74-75). Both McRobie and the individual electoral rolls provided similar figures of slightly over 54,000 electors.



can be of considerable assistance for understanding the relationship between the victims and accused in crimes in New Zealand.<sup>12</sup>

Due to time constraints it has not been possible to search the *Electoral Rolls* and *Wises Street Directories* for every victim and accused whose occupations were not recorded in the Court records, local newspapers and the *New Zealand Police Gazette*. Searches have been conducted with some success for the accused and victims in strike period criminal prosecutions, and for roughly a quarter of the accused and victims in the pre-strike period. Where appropriate this additional occupational information has been incorporated in to the analyses in Chapters Five and Six. Because of the incompleteness of the data on the occupations of the victims of pre-strike offences no attempt has been made in Chapters Five and Six to compare the occupations of strike period victims with those of pre-strike victims.

It should be noted that nearly all the occupations of the accused presented in Chapters Five and Six were obtained from either the *New Zealand Police Gazette* or newspaper reports. Almost all the data on the occupations of the victims in strike related offences has been gathered from the newspaper reports, with some corroborative evidence concerning offences against regular or special constables being provided by the entries in the Criminal Record Books. (The newspapers were particularly informative

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<sup>12</sup> The *New Zealand Electoral Roll* has three significant limitations: first, it includes no one under the legal voting age of 21; secondly, the occupations listed for women are often relatively unhelpful for a social analysis, since the vast majority of women are listed as either married or spinster; thirdly, to be listed on the electoral roll a person must have been resident in a particular area for at least six months.

The second problem can be overcome in many instances if the woman lived at the same address as her husband, father or another male relative of the same surname and that person is on the electoral roll; though a reasonably large number are not able

on the occupations of the accused and victims in strike related cases). The source on the occupations of the victims in strike period but not strike related offending is evenly split between newspaper reports and the *Electoral Rolls*.

Once occupation had been determined for each victim and accused each person was allocated to a class category dependent on occupation.<sup>13</sup> The division between middle class and blue collar workers was modelled on the categorisation developed by Paul Meuli, though not all the subdivisions within each category have been utilised when presenting the data. Meuli argued that skilled and independent manual workers should be considered blue collar, not middle class. To some extent this 'flouts' the generally accepted sociological convention. The supposition that an independent labourer or craftsman had more in common with someone of the same skill level than an equally independent stock-broker in this period is a reasonable assumption and one which will also be used in this analysis.<sup>14</sup> Any occupation not listed in Meuli's extensive listing is categorised to the class grouping that would seem most appropriate.

The basic categories of occupational classification into which the workforce is broken down are as follows:

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to be identified in this way, especially if they have a relatively common name such as Mary Smith.

<sup>13</sup> In this thesis the terms "blue collar" workers and "working class" will be used more or less interchangeably, unless otherwise stated in specific instances.

<sup>14</sup> Paul Meredith Meuli, 'Occupational Change and Bourgeois Proliferation: A Study of New Middle Class Expansion in New Zealand 1896-1926', (unpublished MA thesis, Victoria University of Wellington, 1977), pp.19-24.

Meuli bases his classification system on that devised by C. Wright Mills, **White Collar: The American Middle Classes**, (New York, 1953), cited in Meuli, p.19. Meuli's listing of occupations categorised by class is included as Appendix 1.

- a) Middle Class = Free Professionals, Businessmen, Farmers,  
Salaried Professionals, Salespeople, White Collar  
Workers.
- b) Blue Collar = Skilled and unskilled manual workers.<sup>15</sup>

Further difficulties concerning the allocation of a person into a class category arise even once an individual's occupation has been identified. The major problem is that of 'insufficiently detailed occupational titles. For example; does "engineer" refer to a professional, a mechanic, an assisting labourer, a consultant employer, a government employee? Added to this is the problem of equivalent titles - establishing continuity when two or more descriptions are used for the same job - or even by the same person on different occasions.'<sup>16</sup> These problems have been encountered within this research project, for instance with "engineers" and "boot manufacturers". (What is the exact distinction in scale between a boot maker and a boot manufacturer, and who chooses which title to use?). Where possible, other qualitative evidence such as the value of items stolen, has been used to allocate the individual to a specific class. Where this type of corroborating evidence has not been overly helpful, or not locatable, these persons have been allocated to the "unknown" class category.

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<sup>15</sup> As summarised by Daley, 'Interpersonal Conflict', p.8.

<sup>16</sup> Greg Ryan, 'Where the Game was Played by Decent Chaps. The Making of New Zealand Cricket 1832-1914', (unpublished, PhD thesis, University of Canterbury, 1996), p.18.

### Chapter 3

#### **Crime as Protest during Industrial Disputes - International Perspectives**

Within international research into the history of crime and protest there is considerable evidence to suggest that crime and the enforcement of the criminal law during periods of heightened social tension can often be closely related to those social tensions. As discussed in Chapter One authors such as Howard M. Gitelman, Michelle Perrot, Philip Taft and Philip Ross, David Waddington, R. B. Walker, Michael Wallace, and J. A. Frank have shown that during the late nineteenth century and the twentieth century violence has frequently been used by strikers as an additional form of protest during industrial disputes. The work of Hermann Mannheim and Ted Robert Gurr indicate that there has been a connection between certain major industrial disputes and large increases in the number of prosecutions for violent crime and theft. Gurr also emphasised the impact on crime and prosecution rates of the official response to strife and dissent.<sup>1</sup>

In the current chapter and Chapter Four a series of hypotheses based on the international research will be developed. These hypotheses will demonstrate the specific ways in which crime has been used by strikers and the criminal law has been implemented by the authorities during periods of heightened industrial and social tension. The hypotheses will also provide a framework for analysing the extent to which, and the forms through which, crime was used as protest and the enforcement of the criminal law changed

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<sup>1</sup> For a broad overview of international research on a variety of topics within the study of crime and protest (including the relevant works by the authors named above) see Chapter One.

during particular industrial disputes. The current chapter will focus on “criminal” activities initiated by strikers and their supporters. Chapter Four will examine the ways in which the criminal law has been enforced during periods of industrial dispute and heightened social tensions. In Chapters Five and Six these tests will be applied to the crime data gathered on the 1913 General Strike.

### **Protest Against Employers Through Crime:**

Studies of the history of crime and violence have allowed criminal acts to be understood and analysed as potential forms of protest and social conflict. International research indicates that three general types of crime have been utilised at times during industrial disputes as protest by strikers against their employers and managers: interpersonal violence, violence against property, and theft. The evidence for regarding each of these three categories of crime as potential forms of social conflict will be presented below. Through this discussion it will be demonstrated that examining crimes committed during industrial disputes for evidence of their use as protest is a valid and useful undertaking. Even if it is discovered through detailed case studies (such as that in Chapter Five) that crime was not used as a means of protest in specific disputes, this is still a useful finding. It allows the consideration of why crime, an ever-present potential form of social conflict and protest, was not utilised during particular periods of heightened social tension and mass protest.

Robert G. Neville’s study of the considerable violence in Yorkshire related to the British coal mining lockout of 1893 provides a useful example of the variety of forms in which violence has been and can be used as industrial

protest. 'At several mines there were acts of violence, destruction and arson, which soon assumed a stereotyped form. Colliery managers' offices were wrecked, windows smashed, coal wagons derailed and ignited, books and papers scattered over pit yards, and colliery officials and blacklegs assaulted and intimidated.'<sup>2</sup> These incidents involved both interpersonal violence between the opposing groups involved in the industrial dispute and various types of violence by strikers against the property of their employer.<sup>3</sup>

Direct physical violence between strikers and their employers has been, however, relatively uncommon in industrial disputes. In Quebec in 1937 an inkpot was thrown in the face of the President of the Dominion Textile Company when he visited a textile plant which was on strike.<sup>4</sup> Numerous additional examples of striker assaults on their employers, managers or overseers can be found, but such incidents occurred in only a tiny proportion of all strikes.<sup>5</sup> Michael Wallace's general survey of violence in

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<sup>2</sup> Robert G. Neville, 'The Yorkshire Miners and the 1893 Lockout: The Featherstone "Massacre"', **International Review of Social History**, vol. 21, part 3, 1976, p.341. For similar disturbances during the 1910 coal mining dispute in Durham, England see Dave Douglass, 'The Durham Pitman', in Raphael Samuel (ed), **Miners, Quarrymen and Saltworkers**, (London: Routledge and Kegan Paul, 1977), pp.270-271.

<sup>3</sup> Assaults by strikers against strike-breakers (who are also known as blacklegs, blacksheep or scabs) is another important aspect of protest and conflict through violence during industrial disputes, which will be examined in detail in the next section of this chapter: 'Violent Vengeance against Strike Breakers'.

<sup>4</sup> Stuart Marshall Jamieson, **Times of Trouble: Labour Unrest and Industrial Conflict in Canada, 1900-66**, Study No. 22 for Task Force on Labour Relations, (Ottawa: Information Canada, 1971), p.261.

<sup>5</sup> For further examples of striker assaults on their employers, managers or overseers see Neville, 'The Yorkshire Miners and the 1893 Lockout', p.346 (quoted on p.52 of this chapter); Merfyn Jones, 'Y chwarelwyr: The Slate Quarrymen of North Wales', in Raphael Samuel (ed), **Miners, Quarrymen and Saltworkers**, (London: Routledge and Kegan Paul, 1977), p.106 (slate quarrymen at Hafod y Wern Quarry in Betws Garmon, North Wales in 1876); Haring, **Policing a Class Society**, p.109 (in Pittsburgh during the 1877 railroad strike); and Perrot, **Workers on Strike**, pp.181-

the United States concluded that labour (including strikers) 'seldom initiated violence against employers, except to destroy their property'.<sup>6</sup> Specifically examining industrial violence in the United States from 1860 to 1960 Howard M. Gitelman found that 'Most physical assaults by workers were directed against other workingmen rather than against employers.'<sup>7</sup> Even rarer were instances where employers inflicted interpersonal violence on strikers. An incident and court case from the Queensland shearers' strike of 1891 though, indicates that such confrontations sometimes took place. On 23 February 1891 troops arrived in the town of Clermont and were met by a group of strikers. The commander of the troops, Major Ricardo, addressed his men before the strikers and other locals, and there was some heckling by unionists. John Burn, the manager of Retro sheep station and Justice of the Peace, "bonneted" a striker standing in front of him who had heckled the Major. Burn was fined £5 in the Magistrate's Court for his action.<sup>8</sup>

Various explanations have been offered for the infrequency of interpersonal violence between strikers and employers. Most emphasise the lack of opportunity caused by the distance separating employers and employees during industrial disputes.<sup>9</sup> Simply because this type of violence was relatively rare does not mean that such violence is irrelevant for those

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182. Perrot also concludes that assaults against factory owners were rare in French disputes between 1871 and 1890 (p.181). Charles Tilly, **Popular Contention in Great Britain 1758-1834**, (Cambridge, Massachusetts: Harvard University Press, 1995), pp.348-349 argues that in Britain after 1834 (through to the 1990s) physical attacks on employers were rare.

<sup>6</sup> Wallace, 'The Uses of Violence in American History', p.93.

<sup>7</sup> Gitelman, 'Perspectives on American Industrial Violence', p.12.

For a discussion of violence by strikers against 'other workingmen' see the 'Violent Vengeance against Strike Breakers' section of the current chapter.

<sup>8</sup> Stuart Svensen, **The Shearers' War: The Story of the 1891 Shearers' Strike**, (St Lucia, Queensland: University of Queensland Press, 1989), pp.94 and 102.

interested in protest and social conflict during industrial disputes. Evidence of interpersonal violence by strikers against employers should still be looked for, and regarded as valid evidence of protest through crime, even if the researcher should not be overly surprised if no such incidents are found in a particular case study.

Violence by strikers against their employer's property has been a feature of many industrial disputes. The variety of forms of such property damage are clear from the example of the Yorkshire coal mines in 1893. Other employers throughout the world experienced similar types of violence against their property. During the 1891 and 1894 shearers' strikes in Queensland, Australia arson was frequently used as an act of protest. In 1894 numerous employers' woolsheds were burnt down by strikers, while in the 1891 dispute boundary gates and fences on sheep station owners' property were common targets for arson and other forms of violent damage.<sup>10</sup> In the textile workers strike at Lawrence, Massachusetts in 1912 strikers cut belts, shredded cloth, and smashed electric light bulbs in their textile plants.<sup>11</sup> Striking hotel and restaurant workers at Broken Hill, New South Wales in 1912 raided a hotel and wrecked the dining room.<sup>12</sup> Mine shafts were sabotaged by strikers during coal mining disputes, for example in France in

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<sup>9</sup> For example see Perrot, **Workers on Strike**, pp.181-182.

<sup>10</sup> Ruth Kerr, **Freedom of Contract: A History of the United Graziers' Association of Queensland**, (Brisbane: United Graziers' Association of Queensland (Union of Employers), 1990), pp.23, 28, 33 and 34. Concerning the 1894 woolshed arsons also see Mark Finnane, 'The Varieties of Policing: Colonial Queensland, 1860-1900', in David M. Anderson and David Killingray (eds), **Policing the Empire: Government, Authority and Control, 1830-1940**, (Manchester and New York: Manchester University Press, 1991), p.44.

<sup>11</sup> Sidney Lens, **The Labor Wars: From the Molly Maguires to the Sitdowns**, (Garden City, New York: Doubleday, 1973), pp.172-173.

<sup>12</sup> **The Dominion** (Wellington morning newspaper), 29 February 1912, p.5, col.3



1890.<sup>13</sup> The derailing of trains was used as a weapon of industrial conflict during railway strikes in Sierra Leone in 1920.<sup>14</sup> Petty sabotage was another weapon in the striker's arsenal, though one which was often ineffectual, as in the New South Wales Great Strike of 1917 when strikers smeared two miles of railway line ascending a steep gradient with grease so that a goods train took forty minutes to crawl over the two-mile distance.<sup>15</sup>

Probably the most frequently used form of protest against employers through violence against property was the smashing of windows. Michelle Perrot reached this conclusion through her detailed research into violence during industrial disputes in France between 1871 and 1890.

We must now turn to an examination of the object, forms and degrees of violence perpetrated during strikes. To be schematic, we may say that such violence had the factory as its prime target, window-breaking as its major form and the stone as its principal weapon. At the outset, then, this locates the true level of violence: it is simple stone-throwing, doing little actual damage and

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<sup>13</sup> Roger Magraw, **A History of the French Working Class, vol. 2: Workers and the Bourgeois Republic 1871-1939**, (Oxford and Cambridge, Massachusetts: Blackwell, 1992), p.101.

<sup>14</sup> H. E. Conway, 'Labour Protest Activity in Sierra Leone during the Early Part of the Twentieth Century', **Labour History**, no. 15, November 1968, p.54.

<sup>15</sup> Dan Coward, 'Crime and Punishment: The Great Strike in New South Wales, August to October 1917', in John Iremonger, John Merritt and Graeme Osborne (eds), **Strikes: Studies in Twentieth Century Australian Social History**, (Sydney: Angus and Robertson, 1973), p.61. For further examples of a wide range of violence by strikers against their employer's business property see: John Gray, **City in Revolt: James Larkin and the Belfast Dock Strike of 1907**, (Belfast: Blackstaff Press, 1985), pp.93 and 95-97 (Belfast, 1907); Harring, **Policing a Class Society**, p.120 (Milwaukee streetcar strike of 1896); **The Dominion**, 03 February 1912, p.6, col. 4 (Paris, 1912, taxi-cab drivers strike); and Miriam Dixson, 'Rothbury', in Robert Cooksey (ed), **The Great Depression in Australia**, (Canberra: Australian Society for the Study of Labour History, 1970), p.19 (Rothbury, New South Wales, 1929-1930 coal miners' lockout; on 16 December 1929 miners cut telephone wires to the colliery office).

having, in fact, an essentially symbolic value. It is a mock violence, and its object is to frighten rather than destroy.<sup>16</sup>

Though Perrot's conclusions are not universally applicable, especially in the context of the extreme strike violence so prevalent in the United States, there is considerable evidence in the international research to suggest that window smashing was a very common form for industrial protest through violence. For example, on 1 September 1967 pickets in Stockport, England hurled stones and bricks at the windows of the Roberts-Arundel factory around which they were marching. Forty windows were broken. Earlier in the same strike, on 22 February 1967, twenty windows at the same factory had been shattered by stones and bottles thrown by pickets. The smashing of these windows were acts of protest against an employer and, as Roger Geary emphasises concerning the September disorder, the property of that employer was the specific target. 'There is little doubt that this violence was directed at property rather than persons as the factory was closed, 'blacklegs' and management having taken the day off.'<sup>17</sup> The 1984-1985 British Miners' Strike involved similar incidents. In August 1984 '1,000 stone-throwing pickets launched a night attack on Silverstone and Harworth collieries; cars and pit windows were smashed and a police spokesman said he was convinced the strikers had "given up picketing in favour of vandalism".'<sup>18</sup> Perrot's analysis is a useful model to apply to any case study where strike

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<sup>16</sup> Perrot, **Workers on Strike**, p.172.

<sup>17</sup> Roger Geary, **Policing Industrial Disputes 1883 to 1985**, (Cambridge and New York: Cambridge University Press, 1985), pp.68-69 and 70; the quote is from p.69. This industrial dispute involved workers at the Roberts-Arundel textile machinery manufacturing factory, and lasted from 28 November 1966 to 13 May 1968. During the 1921 coal miners' strike angry pickets had also engaged in window-smashing at the Broidwood Colliery near Motherwell (Geary, p.50).

violence is found, and her conclusions may well be applicable in any case where window smashing is a significant feature of industrial disputes.

Almost all protest against employers through property violence by strikers was aimed against the business property of employers, not against employers' homes or other personal property. Rare instances of attacks on the homes of employers can be found. For instance, during the Quebec textile strikes of 1937 stones were thrown through the windows of some English-speaking executives' homes.<sup>19</sup> Also in Quebec in the late 1930s two fires of suspected incendiary origin threatened the home of a prominent employer during a shipyard strike in Sorel.<sup>20</sup> In connection with the 1910 coal mining dispute in Durham, England the private residences of the manager and assistant manager of Murton colliery were attacked by crowds. At the assistant manager's home 'the railings enclosing the gardens were pulled down' and 'stone after stone was hurled through the large windows and the out-houses.'<sup>21</sup>

Another form of illegal action by strikers against the property of employers was non-violent trespass on or the unlawful occupation of employers' property. In June 1936 one and a half million French workers occupied their factories in 9,000 sitdown strikes. Similar occupations, though on a smaller scale, were used throughout the remainder of 1936, with some sitdowns in 1937 and 1938.<sup>22</sup> The 'occupation tactic' was less frequently

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<sup>18</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, p.140.

<sup>19</sup> Jamieson, **Times of Trouble: ... Canada, 1900-66**, p.261.

<sup>20</sup> Jamieson, **Times of Trouble: ... Canada, 1900-66**, p.261.

<sup>21</sup> Douglass, 'The Durham Pitman', p.271.

<sup>22</sup> Shorter and Tilly, **Strikes in France 1830-1968**, pp.127 and 128; also see their analysis of the 1936 strike wave (pp.128-137). For another analysis of the strike wave see Magraw, **A History of the French Working Class**, vol. 2, pp.262-269.

used in nineteenth century France. Perrot found only six occupations between 1871 and 1890.<sup>23</sup> Sitdown strikes in the United States from September 1936 to May 1937 involved 484,711 workers.<sup>24</sup> In December 1906 I.W.W. members at General Electric's complex in Schenectady went on strike after three Wobblies had been fired. Instead of leaving the factory, to set up outside picket lines, they used the tactic of remaining at their workbenches for the next sixty-five hours.<sup>25</sup> At Lambton, New South Wales in 1879 four thousand striking coal miners occupied the pithead without violence.<sup>26</sup>

Threats against employers and their property were a further means through which strikers expressed hostility towards, and illegally protested against, the actions and attitudes of their employers. Michelle Perrot analysed the spoken and written language used by French strikers between 1871 and 1890. She found that 'language at the grass-roots level, coming from anonymous authors who had no mandate' 'was full of insults and threats'.<sup>27</sup> 'The bosses and their "acolytes" were the favourite target. Hatred for them was spread over walls, burst forth in cries and songs, and provided material for conversation.'<sup>28</sup> The examples she quoted included: "We must

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<sup>23</sup> Perrot, **Workers on Strike**, p.111.

<sup>24</sup> Thomas R. Brooks, **Toil and Trouble: A History of American Labor**, 2nd edition, (New York: Delacorte Press, 1971), p.180, and see pp.180-185 and 192. Also see Lens, **The Labor Wars**, pp.285 and 291-318; Sidney Fine, **Sit-Down: The General Motors Strike of 1936-1937**, (Ann Arbor: University of Michigan Press, 1969); Joseph G. Rayback, **A History of American Labor**, expanded and updated edition, (New York: The Free Press; and London: Collier-Macmillan Limited, 1966), pp.353-355; and Taft and Ross, 'American Labor Violence', pp.383-384.

<sup>25</sup> Lens, **The Labor Wars**, p.156.

<sup>26</sup> Walker, 'Violence in Industrial Conflicts in NSW late 19th C', p.56.

<sup>27</sup> Perrot, **Workers on Strike**, pp.211-217 (the quotes are from pp.212 and 213, respectively).

<sup>28</sup> Perrot, **Workers on Strike**, p.213.

strike down these bloodthirsty vampires [the bosses] and not allow ourselves to be bled dry"; and that the Saint-Quentin weavers sang "The masters are swine, we'll hang them all" as they marched in the streets.<sup>29</sup> "That rogue of a manager has brought us to Bousies to die of hunger. He must be killed within the week or we shall perish", one read on the gates to the weaving mill in Seydoux. ... "Arm yourselves then with daggers and revolvers. Time is short to kill our masters and managers and, most of all, those great layabouts of overseers. Kill-kill-kill, Shoot-shoot-shoot", exhorted one handwritten placard posted up at the Dulac factory in Armentières.<sup>30</sup> During the Queensland shearing dispute of 1891 threats were allegedly made by strikers to let loose 600 rabbits and to cut boundary fences so as to wreck havoc among the sheep.<sup>31</sup>

In connection with the Brisbane General Strike of 1912 the manager of the Brisbane tramways reported receiving several threatening letters.<sup>32</sup> These letters may not have been sent by strikers but the possibility that they were should not be ignored. In France a threatening letter was sent by the Solesmes weavers to their employers: "Messieurs our masters ... we, your workers, we're warning you that if you cut wages any more, we'll ruin your mills for you."<sup>33</sup>

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<sup>29</sup> Perrot, **Workers on Strike**, pp.214 and 215, respectively.

<sup>30</sup> Perrot, **Workers on Strike**, p.214.

<sup>31</sup> Kerr, **Freedom of Contract**, p.24.

<sup>32</sup> **The Dominion**, 09 February 1912, p.5, col. 4. For a useful analysis of threatening letters as social protest see E. P. Thompson, 'The Crime of Anonymity', in Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson, and Cal Winslow, **Albion's Fatal Tree: Crime and Society in Eighteenth-Century England**, (Harmondsworth, Middlesex: Penguin Books, 1975), pp.255-308.

<sup>33</sup> As quoted in Perrot, **Workers on Strike**, p.215. The year of the industrial dispute is not specified on p.215 but would have been between 1871 and 1890.

From the preceding analysis of the international research it is clear that to fully understand the variety of forms through which protest could be enacted during industrial disputes the violence and violent crime during those disputes need to be examined for evidence of their use as acts of protest and defiance. Violence has always been a potential weapon for the discontented; knowledge of its use, or lack of use, during industrial disputes allows insights into the general history of industrial conflict and the history of crime, as well as enhancing our knowledge of particular industrial disputes.<sup>34</sup>

Theft as a form of protest by strikers against employers during industrial disputes is an understudied aspect of labour history and the history of crime. The work of Hermann Mannheim provides evidence that overall larceny rates during Britain's 1912 strike wave and 1926 General Strike increased.<sup>35</sup> Research on annual official crime statistics by Ted Robert Gurr tentatively suggests that industrial disputes in London in 1919-1920, 1929-1931, 1957 and 1969-1971 and in Sydney in 1886-1888, 1917, 1919 and 1929 may have had some influence on the increase in convictions for theft during the same years or in the immediately following year.<sup>36</sup> Due to the breadth of their studies and the sources they were utilising neither Mannheim or Gurr examined the influence of strike related theft from employers on the increases in overall theft rates.

Padraic Kenney argued that petty theft from their employers was used as resistance and protest by textile workers both before and after the

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<sup>34</sup> For a well argued example of a range of more general historical insights gained through an investigation of industrial dispute violence see Walker, 'Violence in Industrial Conflicts in NSW late 19th C', pp.65-70. Some of these insights will be discussed in Chapter Five, p.216.

<sup>35</sup> Mannheim, **Social Aspects of Crime**, pp.156 and 158.

September 1947 Poznanski Textile Strike in Łódź, Poland.<sup>37</sup> The role of theft while the strike was in progress was not investigated.

Some instances of theft having been utilised as a means of protest and social conflict against employers during disputes can be found in studies in which this topic was not one of the specific focuses for the research or analysis. At Murton colliery, County Durham, England, there was 'a mass raid on the coal heap by many hundreds of men, women and children, who were able to hopelessly outnumber the police, and to carry away coal for their homes' during the 1910 coal mining dispute.<sup>38</sup> In Queensland, Australia there were reports of cattle being stolen and slaughtered for food from station owners (the employers) during the shearing dispute of 1891.<sup>39</sup> Detailed case studies of theft and specific industrial disputes are required to provide more conclusive evidence on the frequency with which theft was used as protest against employers during strikes and lockouts, and on the types of goods which were stolen.

By examining the broader field of research into crime as protest and social conflict the potential for theft, burglary and other larcenies to have been used as protest is apparent. The work of James C. Scott, Douglas Hay, Cal Winslow, Eric Hobsbawm, John McQuilton, and David J. V. Jones all demonstrate how a range of illegal activities which can be classed as acquisition crimes have been used as forms of protest and conflict in particular circumstances of extreme or heightened social tension or social

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<sup>36</sup> Gurr, 'The Comparative Analysis of Public Order', pp.666-668, 670 and 671.

<sup>37</sup> Kenney, 'Working-class Community and Resistance in pre-Stalinist Poland', pp.34 and 50. For a more detailed discussion of the findings of Mannheim, Gurr, and Kenney see Chapter One of the current thesis.

<sup>38</sup> Douglass, 'The Durham Pitman', p.270.

conflict. All these researchers focus on non-industrial, and usually pre-industrial, contexts, but since there is almost no research which examines theft during industrial disputes, these are very valuable analyses for the researcher into crime during industrial disputes.

Such non-industrially focused research also provides a general model for identifying instances where social conflict through theft is the most likely to occur. These instances are usually periods of extreme or heightened social tension or social conflict where open protest or rebellion is impractical as the dangers of violent repression by the ruling classes and their ally the state are too high.<sup>40</sup> However, instances where covert forms of theft were combined with overt violence have also been found by historians such as Hay and Winslow. In tandem with the covert acquisition crimes of poaching and smuggling in eighteenth century England, assault and robbery were used to protest against perceived class oppression.<sup>41</sup> Overt forms of theft, such as highway and bank robberies, have also been used alongside overt violence by Hobsbawm's social bandits and McQuilton's Australian bushrangers.<sup>42</sup> If theft can be used as a weapon of social conflict in conjunction with certain forms of overt violent protest (as has been found by Hay, Winslow, Hobsbawm and McQuilton), then it may be possible (and it is as yet an unconfirmed indication only) that covert theft can be used as a weapon of social conflict even during periods when large scale overt protest took place. Strikes and the demonstrations and picketing they involve are such periods of

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<sup>39</sup> Kerr, **Freedom of Contract**, p.24.

<sup>40</sup> Scott, 'Everyday Forms of Peasant Resistance', pp.5-6, 8, 12 and 14-15.

<sup>41</sup> Hay, 'Poaching', pp.195-197; Winslow, 'Sussex Smugglers', pp.119-120, 130, 154-155, 158, 159 and 161-166.



large scale overt protest. The investigation of whether or not theft was used as a criminal form of protest and social conflict during industrial disputes will enhance our understanding of industrial disputes by resolving the uncertainty and gap in our historical knowledge which currently exists concerning the relationship between theft, protest, social conflict and industrial disputes.

To determine if protest against employers through crime (particularly violence and theft) occurred in Wellington during the 1913 strike a detailed search of the relevant court records, police records, and newspapers has been conducted. The results will be presented in Chapter Five. Both prosecuted and unprosecuted offences will be analysed. Crimes against employers whose workers were not on strike but whose actions were perceived by strikers to be assisting efforts to defeat the strike will also be examined.

The expectations from the international research are that interpersonal violence against employers during the strike should be low, while violence by strikers against the business property of employers is more likely, though not certain, to be found. Significantly different findings are not completely unexpected, given the wide range of types and levels of violence, disorder, and crime apparent from different case studies in the international research. An expectation on the likelihood of theft having been used as protest or social conflict during the strike is difficult to make due to the lack of international research examining theft during industrial disputes. Theft as a weapon of the weak and oppressed has been identified during periods of extreme or heightened social tension or social conflict. Wellington in 1913 experienced

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<sup>42</sup> Hobsbawm, **Primitive Rebels**, p.5; McQuilton, **Kelly Outbreak**, pp.3, 109-

such social tension and class conflict. It is possible that theft was used as another form of protest and social conflict in Wellington, though it is equally possible that other factors mitigated the need to use theft as a form of protest, or inhibited the use of theft as protest.<sup>43</sup>

### **Violent Vengeance against Strike Breakers:**

Physical attacks on the “scabs” or “blacklegs” who replace strikers are a common feature of protracted industrial disputes in which “free labour” is hired by employers. These strikebreakers can be outsiders to the occupation, industry or firm at the centre of the dispute (whether they were previously unemployed or under-employed, or are short-term volunteers who have regular jobs to return to once the dispute or “crisis” is resolved), former strikers who decide to return to work while the strike or lockout is still in progress, or those who refused to stop work when the dispute began.<sup>44</sup> During the 1890 Maritime Strike strikebreaking wharf labourers in Sydney

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111, 153, 155, 157, 159-167 and 168.

<sup>43</sup> For a discussion of possible mitigating or inhibiting factors see Chapter Five, pp.215 and 216-217.

<sup>44</sup> For examples of the considerable variation in the previous employment status of those who act as strikebreakers (from locals who continued to work and imported strikebreakers to ‘leading businessmen and pastoralists, some attired in bell toppers and white gloves’) see Walker, ‘Violence in Industrial Conflicts in NSW late 19th C’, pp.56-57, 59 and 63. Also see Haring, **Policing a Class Society**, p.103. In addition, see Chapter One, pp.3-4 and Chapter Five, p.188 and the references in footnote 102 on p.191, in the current thesis for examples of clerks, farmers, rural labourers, accountants, butchers, ship’s officers, employers, and former strikers acting as strikebreakers in Wellington in 1913. During the 1949 coal strike in New South Wales and the New Zealand waterfront dispute of 1951 soldiers were used as replacements for the striking or locked out unionists (see Phillip Deery, ‘Chifley, The Army and the 1949 Coal Strike’, **Labour History**, no. 68, May 1995, pp.80-97; and Robert Chapman, ‘From Labour to National’, in Geoffrey W. Rice (ed), **The Oxford History of New Zealand**, 2nd edition, (Auckland: Oxford University Press, 1992), p.374, respectively).

were attacked by angry strikers.<sup>45</sup> Striking seamen in Australia in 1935-1936 and Portland, Oregon in 1906 assaulted scabs who had taken over their jobs.<sup>46</sup> In rare instances scabs were murdered by strikers, as at Gray's Harbor, Washington state during the 1906 strike of the Sailor's Union of the Pacific.<sup>47</sup> Pre-emptive violence by strikers against those who were approaching the struck workplace seeking work also occurred, for instance, during the South Johnstone Sugar Mill strike in Queensland in 1927.<sup>48</sup> Another frequently used type of interpersonal striker initiated violence was the stoning of scabs by strikers, as occurred during the Belfast Dock Strike of 1907 and the Maritime Strike of 1890 at Newcastle, New South Wales.<sup>49</sup> Howard M. Gitelman has found that in the United States 'most worker-initiated strike violence took the form of physical assaults upon strikebreakers and upon fellow employees who attempted to cross picket lines.'<sup>50</sup> Further examples of such violent vengeance by unionists against strikebreakers can be found in industrial disputes throughout the world in the late nineteenth century and the twentieth century.<sup>51</sup>

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<sup>45</sup> Walker, 'Violence in Industrial Conflicts in NSW late 19th C', p.63.

<sup>46</sup> L. J. Louis, 'Recovery From the Depression and the Seamen's Strike 1935-6', **Labour History**, no. 41, November 1981, p.85; Taft and Ross, 'American Labor Violence', p.311.

<sup>47</sup> Taft and Ross, 'American Labor Violence', p.311.

<sup>48</sup> K. H. Kennedy, 'The South Johnstone Strike and Railway Lockout, 1927', **Labour History**, no. 31, November 1976, pp.3-4.

<sup>49</sup> John McHugh, 'The Belfast Labour Dispute and Riots of 1907', **International Review of Social History**, vol. 22, part 1, 1977, p.3; Gray, **City in Revolt: James Larkin and the Belfast Dock Strike of 1907**, pp.61-62 and 154; Walker, 'Violence in Industrial Conflicts in NSW late 19th C', p.69.

<sup>50</sup> Gitelman, 'Perspectives on American Industrial Violence', p.11.

<sup>51</sup> For example see Taft and Ross, 'American Labor Violence', p.305 (Pennsylvania Anthracite Coalfields 1902); Harring, **Policing a Class Society**, pp.113 and 114 (McCormick reaper works strikes, Chicago, 1885 and 1886); **The Evening Post**, 03 November 1911, p.10, col. 5 (miners at Lithgow, New South Wales 1911);

The same central motivation for physical violence against strikebreakers has been found by research on the United States, Australia and Britain. These studies also emphasised the high likelihood of violence in industrial disputes where scabs were employed, that the targets of striker initiated violence were usually strikebreakers, and that the prevalent form of violence against strikebreakers was assault. The overt aim of the employment of free labour is to hasten the end of the dispute in the favour of the employers. Strikers realise that they are becoming powerless to legally influence the outcome of the dispute, and that an eventual return to their jobs is threatened by the scab replacements. Feelings of frustration, powerlessness and anger build. Frequently these feelings are expressed in the form of illegal acts of violence against free labourers. Howard M. Gitelman concluded that the use of strikebreakers in the United States from the 1860s to the 1960s 'was almost a guarantee of violent striker response.'<sup>52</sup>

The expectation of returning to work at the conclusion of a strike was jeopardised by the legal and popularly sanctioned right of employers to hire and fire at will. When this jeopardy was made manifest by the introduction of strikebreakers, their frustration and rage provoked workingmen to acts of violence. The grievances their actions [the strike] had attempted to redress had been compounded beyond rational recourse, and they struck out in desperation.<sup>53</sup>

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Shorter and Tilly, **Strikes in France 1830-1968**, p.42 (smelting and forge workers in Rive-de-Gier (Loire), France 1893); Brian Didsbury, 'Cheshire Saltworkers', in Raphael Samuel (ed), **Miners, Quarrymen and Saltworkers**, (London: Routledge and Kegan Paul, 1977), pp.179-180 (Weaver watermen's strike of 1892, Cheshire); Douglass, 'The Durham Pitman', p.276 (miners at Usworth, County Durham, England 1879).

<sup>52</sup> Gitelman, 'Perspectives on American Industrial Violence', p.11.

<sup>53</sup> Gitelman, 'Perspectives on American Industrial Violence', p.9.

it was ... more broadly the frustration attendant upon having the daring act of striking nullified in any aggressive way by the employer that precipitated the violence.<sup>54</sup>

Taft and Ross argued along similar lines: 'Workers were, however, unwilling to watch their jobs forfeited to a local or imported strikebreaker.'<sup>55</sup> 'Facing inflexible opposition [from employers] .... Frustration and desperation impelled [union] pickets to react to strikebreakers with anger. Many violent incidents followed efforts of strikers to restrain the entry of strikebreakers and raw materials into the struck plant' or workplace.<sup>56</sup>

Not all the striker violence which accompanied the use of strikebreakers in the United States (or elsewhere in the world) was directly against strikebreakers. Often the police, military, volunteer police or private guards protecting or escorting strikebreakers became the targets of violence when they interposed themselves between the strikers and their intended prime targets: the strikebreakers.<sup>57</sup> Violence could also be initiated by those instructed to protect the strikebreakers. Such violence in the American context was frequently extreme and excessive.<sup>58</sup> The conclusions of Gitelman and Taft and Ross quoted above refer to all these various types of violence related to the use of strikebreakers to defeat strikes. This

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<sup>54</sup> Gitelman, 'Perspectives on American Industrial Violence', p.12.

<sup>55</sup> Taft and Ross, 'American Labor Violence', p.294.

<sup>56</sup> Taft and Ross, 'American Labor Violence', pp.381-382. Sidney Haring, **Policing a Class Society**, p.103, concluded that 'The confrontation between striking workers and police-protected scabs was at the root of virtually all strike violence' in the major cities and the smaller industrial cities of the Great Lakes / Ohio Valley region of the United States between 1884 and 1915. For the extensive research and analysis on which he bases this conclusion see Haring, **Policing a Class Society**, pp.101-106, 110, 111-144 and 146-148.

<sup>57</sup> For detailed discussion of this type of striker violence see the 'Protest Against the State through Crime' section of this chapter.

<sup>58</sup> For discussion of this type of industrial dispute violence see Chapter Four.

consideration, however, does not lessen the validity of their conclusions concerning the motivation for and frequency of striker initiated violence against strikebreakers. Violence against strikebreakers was a significant aspect of American labour violence.

It should be noted that in some disputes in the United States ethnic or racial tensions were a second important factor in generating physical violence against strikebreakers. Such disputes form part of the large set of cases from which Taft and Ross and Gitelman drew their conclusions. In these disputes employers hired the replacements for their strikers from a different ethnic group to those who were on strike. (The strikebreakers in such disputes were most often from a minority ethnic group). Attacks on strikebreakers also frequently occurred in strikes or lockouts where both the strikers and strikebreakers were from the same ethnic group. This suggests that ethnic or racial tension was not the primary cause of the violence against strikebreakers in most of the disputes in which the strikers and their replacements were from different ethnic groups. Ethnic or racial hostility, though, may have increased the likelihood of violence against strikebreakers and may have made strikers more willing to use extreme violence against the strikebreakers.<sup>59</sup>

R. B. Walker's detailed study of violence during industrial disputes in late nineteenth century New South Wales reached similar conclusions as Gitelman and Taft and Ross regarding the motivation of striker violence against strikebreakers.

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<sup>59</sup> On this broad topic see Jeffreys-Jones, 'Theories of American Labour Violence', pp.254-257; Gitelman, 'Perspectives on American Industrial Violence',

By contrast [to skilled occupations], in [the semi-skilled occupations of] wharf labouring, shearing and mining there were no safety laws and regulations to prevent inexperienced labour being substituted for experienced union labour. Consequently, these workers sought to ensure the effectiveness of strikes by strict picketing and, if necessary, to back up moral suasion with physical coercion. Intimidation of and assaults on strikebreakers became the most familiar forms of lawbreaking. Despite its vulnerability, destruction of property was less frequent.<sup>60</sup>

Walker's findings indicate that some conclusions concerning American labour violence (which in many aspects was exceptional when compared internationally) can be applicable to other parts of the world.<sup>61</sup>

Walker's research is also valuable as its focus is a location and period very close to the case study which is the focus of this thesis. This closeness in time and space, as well as the central involvement of wharf labourers in the New Zealand dispute (one of the three occupations Walker has found to be 'associated with disorder in industrial disputes'), suggest that Walker's conclusions may well be valid for Wellington in 1913.<sup>62</sup> If the experiences of New South Wales and Wellington are similar then it is expected that assaults on and intimidation of strikebreakers will have been more frequent during the 1913 strike than violence against property by strikers and their sympathisers.

These American and Australian conclusions on the motivation for and frequency of violence against scabs appear to be equally applicable to the

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pp.13-15; Harring, **Policing a Class Society**, p.112; and Wallace, 'The Uses of Violence in American History', p.94.

<sup>60</sup> Walker, 'Violence in Industrial Conflicts in NSW late 19th C', pp.55-56.

<sup>61</sup> For a more detailed discussion of the aspects of labour violence in the United States which were exceptional in the international context see Gitelman, 'Perspectives on American Industrial Violence', pp.15-16 and 20-22. Also see pp.67 and 81-82 in the current chapter.

<sup>62</sup> Walker, 'Violence in Industrial Conflicts in NSW late 19th C', p.55.

history of industrial disputes in Britain. Though no broad survey which examines the relationship between the use of strikebreakers and violence against scabs in Britain seems to have been published, case studies of specific industrial disputes and Roger Geary's history of the policing of industrial disputes provide an indication of the motivation for this violence and its frequency. John McHugh, in his work on the Belfast Dock Strike of 1907, argued that 'the use of blackleg workers raised the temperature of the strike and provoked the strikers to violence in the form of stone throwing directed at the blacklegs.'<sup>63</sup> In September 1893 there were numerous riots in Yorkshire associated with the British coal mining lockout. Robert G. Neville found that 'nearly all the riots seem to have started at pits where "blacksheep" were working, or where coal was being moved from stockpiles, or where it was rumoured that such activities were taking place.'<sup>64</sup> Roger Geary reached a related conclusion with regard to the dominant form of disorder by strikers in Britain between 1909 and 1914. In this period collective action by strikers was concerned with 'obstructing, sometimes quite violently, "blacklegs" or non-unionists.' 'Disorder now typically occurred at the factory or colliery gate and only at the time when imported labourers attempted to enter or leave.'<sup>65</sup>

The Wellington unionists who went out on strike in 1913 experienced the preconditions for the exact scenario of violent vengeance described above. The striking unionists would have experienced feelings of powerlessness as the hope of the first few weeks of the strike began to fade,

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<sup>63</sup> McHugh, 'The Belfast Labour Dispute and Riots of 1907', p.3.

<sup>64</sup> Neville, 'The Yorkshire Miners and the 1893 Lockout', p.340. Neville, p.340, defined "blacksheep" as 'miners who continued working during a strike or lockout'.



when the vacancies they had left on the wharves and ships were quickly filled by free labourers and seamen. The strikers had been effectively replaced, and their individual effect on the outcome of the strike was severely diminished. Such powerlessness would have created a desire for revenge in many, and what better symbol to bring the wrath of their vengeance down upon than those who had taken their jobs, threatened their pre-strike livelihoods, and effectively negated the impact of the strike: the free labourers?

To test this interpretation the occupation and role in the strike of the participants in the most common form of violent crime, assault, will be investigated. Assault is the simplest and most direct form of non-fatal vengeance that can be taken by one person or group on another. That the assault was an act of retribution is usually obvious to the victim. In contrast, unexplained property damage or theft can be misinterpreted as having been caused by other, or even, random factors. This quality makes assault both easier to analyse for the social historian, and more appealing to the vengeful, since a large part of the reward of revenge is the intimidation the offender knows it causes. Any other crimes in which the victim or the accused was acting as a strikebreaker will also be analysed.

Violence by strikers against strikebreakers usually consisted of minor to moderate assaults which seldom went beyond pushing, punching and kicking. Shootings were generally rare, though there were exceptions such

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<sup>65</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, pp.25, 26, 28-29, 31-32, 33, 34 and 46-47. (The quotes are from pp.25 and 47, respectively).

as mining disputes in the United States.<sup>66</sup> The use of explosives and rockets against strikebreakers is not unknown, but such events are exceptional, and there is always the problem with such indirect attacks of who initiated them: strikers, sympathisers, or simply hooligans taking advantage of a period of disorder or conflict. Such was the problem facing police and unionists in Minmi, a mining town in New South Wales in 1895 when two home-made rockets were fired into the strikebreakers' camp; no one was convicted for the incident and the actual identity of the perpetrators is still unknown to historians today.<sup>67</sup>

If the conclusions of Gitelman and Walker are applicable to the Wellington context then a large proportion of (if not most) worker-initiated strike violence should take the form of minor to moderate physical assaults upon strikebreakers (including upon any fellow employees who attempted to cross picket lines).<sup>68</sup> Thus, it is expected that this form of protest and industrial conflict should comprise a prominent proportion of the interpersonal physical violence committed and prosecuted in Wellington during the 1913 dispute.

The likelihood of protest by strikers against the personal property of strikebreakers through theft or property damage is low, except for any strikebreakers who lived locally. For example, during the 1879 strike by coal miners in Usworth, County Durham, England, 'a party of young miners [who were on strike] went to the house of one of the blacklegs with the intention of

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<sup>66</sup> Gitelman, 'Perspectives on American Industrial Violence', pp.11-12; and Perrot, **Workers on Strike**, pp.114-115.

<sup>67</sup> J. W. Turner, 'An Incident at Minmi, 1895', **Labour History**, no. 6, May 1964, pp.7-9; Walker, 'Violence in Industrial Conflicts in NSW late 19th C', p.58.

persuading him to come out with them. The man came at the deputation with a gun, but this was wrested from him and smashed to pieces, as were the door and windows of his house.<sup>69</sup> In connection with the South Wales coal strike of 1910-1911 there were 'attacks on the, usually unoccupied, houses of 'blacklegs'.<sup>70</sup>

### **Protest Against the State through Crime:**

The targets of striker vengeance and violent frustration were not limited to employers and strikebreakers: another focus for crime used as protest during industrial disputes was the State and the enforcers of its laws (the police, the military, and state officials). Sidney Lens has argued that striker 'defiance of what is commonly called "law and order" ' was frequent during industrial disputes in the United States where 'law and order was specifically directed at crushing their union' or strike.<sup>71</sup> The central component of Lens's argument for understanding striker-initiated violence and crime is the perception held by strikers that the forces of the State were not remaining neutral during industrial disputes, but were actively helping employers to defeat the strike. An illustrative example can be drawn from the Belfast Dock Strike of 1907.

Union leaders argued that the action of the police and military in protecting blackleg dockers and directing blackleg carters around Belfast was a breach of the strikers' right to picket and evidence of collusion with employers. .... In the event the use of police as escorts in the transportation of goods around the city

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<sup>68</sup> Gitelman, 'Perspectives on American Industrial Violence', p.11; Walker, 'Violence in Industrial Conflicts in NSW late 19th C', pp.55-56.

<sup>69</sup> Douglass, 'The Durham Pitman', p.276.

<sup>70</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, p.29.

<sup>71</sup> Lens, **The Labor Wars**, p.266.

provoked frequent and violent clashes between strikers and the Royal Irish Constabulary.<sup>72</sup>

The same perception and resulting unlawful actions, with specific variations from case to case, can be found in a wide-range of industrial conflicts throughout the world in the late nineteenth and twentieth centuries.

This section will focus on the ways in which violence and other crimes by strikers and their sympathisers against the State can be understood as potential forms of protest during industrial disputes. The issue of violence by the police against strikers will be examined in the following chapter. Five variations of such protest crime against the State will be presented: striker violence against three specific groups (respectively, the police, the military, and State officials), striker violence against state property, and finally, the theft of state property.

At the outset of this discussion it should be noted that the violence and crime against the state which will be described was not revolutionary. Michelle Perrot articulately captures the reality of most confrontations between strikers and the police: such confrontations 'were more an expression of anti-authoritarian feeling than genuine rebellion, and they were certainly not insurrectionary.'<sup>73</sup> Violence and disorder by strikers during attempted or successful revolutions, such as those in Russia in 1905 and 1917 or in Germany between 1918 and 1920, will be excluded from the following analysis due to their exceptional nature with regard to industrial

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<sup>72</sup> McHugh, 'The Belfast Labour Dispute and Riots of 1907', p.9.

<sup>73</sup> Perrot, **Workers on Strike**, p.184.

disputes.<sup>74</sup> Threats of, and calls for, revolutionary uprisings that did not lead to actual revolutionary activity will be included in the discussion where appropriate, since many non-revolutionary strikes did involve such threats, though usually the threats were more fiery rhetoric than realistic.

Violence by strikers against the police was a frequent outcome of the police protecting or escorting strikebreakers or protecting employer property. The usual forms of such violence were stone-throwing, direct assault and rioting. The use of firearms and explosives was rare, though less so in the United States. For example, during the 1892 silver and lead miners dispute at Broken Hill, New South Wales eight policemen were injured when a trainload of police and strikebreakers was heavily stoned.<sup>75</sup> In Belfast in 1907 there were numerous violent clashes between strikers and the police escorting strikebreakers as described above.<sup>76</sup> Police guarding employers' property were not immune from strikers expressing frustration and seeking vengeance through violence. The policeman guarding the Eroungella

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<sup>74</sup> For useful analyses of the role of strikers in the Russian Revolution of February 1917 see Robert B. McKean, **St. Petersburg Between the Revolutions: Workers and Revolutionaries, June 1907-February 1917**, (New Haven and London: Yale University Press, 1990), pp.460-476 and 491-494; Tsuyoshi Hasegawa, **The February Revolution: Petrograd, 1917**, (Seattle: University of Washington Press, 1981); George Katkov, **Russia 1917: The February Revolution**, (London: Longmans, 1967); and Diane Koenker and William G. Rosenberg, **Strikes and Revolution in Russia, 1917**, (Princeton, New Jersey: Princeton University Press, 1989). Concerning the 1905 Russian Revolution see Gerald D. Surh, **1905 in St Petersburg: Labor, Society and Revolution**, (Stanford, California: Stanford University Press, 1989); and Henry Reichman, **Railwaymen and Revolution: Russia, 1905**, (Berkeley, Los Angeles, and London: University of California Press, 1987). With regard to the German revolution of 1918 to 1920 see Wolfgang J. Mommsen, **Imperial Germany 1867-1918: Politics, Culture, and Society in an Authoritarian State**, (London: Arnold, 1995 - translated from the German original (1990) by Richard Deveson), pp.238-239 and 241-254.

<sup>75</sup> Walker, 'Violence in Industrial Conflicts in NSW late 19th C', p.59.

<sup>76</sup> See p.73; and McHugh, 'The Belfast Labour Dispute and Riots of 1907', p.9.

woolshed in New South Wales during the 1894 shearers' strike was overpowered by strikers and the woolshed burnt down.<sup>77</sup> Similar events took place during the 1984-1985 British Miners' Strike. 'In Yorkshire, at Kiveton Colliery, a police horse was stoned to the ground and three policemen were cut by broken glass when their coach was attacked by angry miners, while in South Wales strikers occupying crane cabins at Port Talbot [Steelworks] threw a variety of missiles at police 120 feet below.'<sup>78</sup>

Violence could also be initiated by strikers when the police were escorting employers. At Clermont, Queensland during the 1891 Shearers' Strike members of the Special Pastoralists' Executive (the employers' association) and their police escort were welcomed by strikers with a barrage of stones. Police Sergeant Dillon received a deep head wound.<sup>79</sup>

Mass demonstrations and picket lines were often contexts and sites for striker violence against the police. At such mass gatherings police and strikers were in close proximity to each other, often for extended periods of time. Tension was almost inevitable, as the police were present to counter any potential threat to "public order" or "the law" posed by the strikers. At times tension became actual conflict and violence. In some instances striker violence was a response to perceived or real police provocation; in others the strikers were clearly seeking a confrontation; and in some situations the frustration caused by the success of the police in "maintaining law and order" could simply no longer be controlled.

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<sup>77</sup> Walker, 'Violence in Industrial Conflicts in NSW late 19th C', p.61.

<sup>78</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, p.141. For further examples from the 1984-1985 dispute of violence by strikers against the police see Geary, pp.138-141.

<sup>79</sup> Kerr, **Freedom of Contract**, p.22.

Perceived police provocation was the immediate cause of violence at Warrington during the largest mass picket of the British newspaper dispute of 1983. On 30 November the strikers made their 'ritual attempt to block the route of newspaper delivery vans. Previously, picketing had taken the form of pushing and shoving on both sides, but the confiscation of union banners and the pickets' public address system by the police led to the throwing of stones and bottles by strikers.'<sup>80</sup> Geary argues that many of the disorderly incidents associated with the British General Strike of 1926 were directly due to physical provocation by the police and Specials (volunteer constables) involving repressive baton charges.<sup>81</sup> Geary also suggests that this same pattern can be found in much of the industrial dispute related violence in Britain between 1915 and 1945.<sup>82</sup>

Strikers desiring a confrontation with police was another source of industrial violence. During the British national steel strike of 1980 'pickets turned up at Hadfields [private steel works in Sheffield] on 12 March seeking a confrontation. The police anticipated trouble and had drafted in reinforcements from neighbouring forces. Pickets charged them and there

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<sup>80</sup> Waddington, **Contemporary Issues in Public Disorder**, pp.97-98. Also see Geary, **Policing Industrial Disputes 1883 to 1985**, p.135.

<sup>81</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, pp.65 and 66; and see Waddington, **Contemporary Issues in Public Disorder**, p.97. A similar conclusion was reached in 1926 by Emile Burns, **The General Strike May 1926: Trades Councils in Action**, (London: Labour Research Department, 1926), [1975 Lawrence and Wishart edition used], pp.72-73 and 74. For other discussions of the violence during the 1926 General Strike see Jane Morgan, **Conflict and Order: The Police and Labour Disputes in England and Wales 1900-1939**, (Oxford: Clarendon Press, 1987), pp.203-204; Patrick Renshaw, **The General Strike**, (London: Eyre Methuen, 1975), pp.18-19; and the references given in footnote 96 on p.128 of this thesis.

<sup>82</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, p.66, and see pp.48 and 64. Also see Waddington, **Contemporary Issues in Public Disorder**, p.97.

was hand-to-hand fighting.'<sup>83</sup> A similar striker motivation can be inferred from part of Waddington's discussion of the British Miners' Strike of 1984-1985. He describes the flashpoint for mass violence at Orgreave on 18 June 1984: 'a group of youths rolled a tractor tyre towards the police line. Some officers broke ranks and were met with a volley of stones' from the picket line.'<sup>84</sup> It seems unlikely that such a minor incident would have led to stone throwing unless at least some of the strikers were willing, if not actually waiting, to initiate a violent confrontation with the police.

A related cause of violence on picket lines or during demonstrations was frustration. When the police were successful in maintaining the employers' legal right to keep their workplaces operational this limited or negated the impact of the strike and the picket line. This caused frustration among the strikers. For some such frustration grew until it could no longer be controlled and it was expressed as violence against the police. An earlier clash at Orgreave on 29 May 1984 illustrates this sequence of events.

From the outset, the police demonstrated a consistently uncompromising attitude. One crowd of pickets was prevented from getting within half a mile of the gates by lines of police officers, while a second group, who had managed to assemble earlier opposite the gates, was charged by police horses and dog handlers. When the convoys of coke lorries arrived, any attempt at picketing was rendered ineffectual: whenever serious pushing was exerted against police lines, snatch squads were instantly deployed. Sensing the futility of their actions, some miners threw stones. This was answered by the production of full-length riot shields and, as the throwing intensified, mounted horses with baton-wielding riders were sent in.<sup>85</sup>

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<sup>83</sup> Waddington, **Contemporary Issues in Public Disorder**, p.101-102.

<sup>84</sup> Waddington, **Contemporary Issues in Public Disorder**, p.105.

<sup>85</sup> Waddington, **Contemporary Issues in Public Disorder**, p.105.



Police making arrests or attempting to make arrests were further potential occasions for violence. In Pittsburgh in 1877 four policemen arrested a brakeman for assaulting the Assistant Superintendent of the Pennsylvania Railroad. To do so the police had to fight their way through railway workers trying to protect their fellow striker.<sup>86</sup> At Rockingham Colliery, Yorkshire in 1893 'six constables arrived at the height of the disturbances and attempted to arrest the first six rioters they encountered. The mob reacted violently and bombarded the police so severely that the constables were compelled to retreat without their prisoners.'<sup>87</sup> During the Brisbane General Strike of 1912 two constables at Townsville (where sympathy strikes were in progress) were pelted with stones by a mob of strikers after arresting a drunken man.<sup>88</sup>

Police stations have also been the sites and targets of violent protest by angry strikers and their sympathisers. In Preston during the British General Strike of 1926 'a mob of 5,000 tried to storm a police station to rescue a striker arrested during earlier attacks on buses. After three baton charges local police had to call for reinforcements from the Lancashire Constabulary. Fighting lasted for a further two hours before the mob was finally dispersed.'<sup>89</sup> Further north in connection with the same dispute, at Tranent in East Lothian, Scotland, 'a serious fracas took place between a

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<sup>86</sup> Harring, **Policing a Class Society**, p.109.

<sup>87</sup> Neville, 'The Yorkshire Miners and the 1893 Lockout', p.342.

<sup>88</sup> **The Dominion**, 07 February 1912, p.5, col. 4 and 08 February 1912, p.5, col.5  
In each of these riotous incidents the mobs were probably not entirely made up of strikers. However, it is logical to assume, given the context of each disturbance, that strikers and their sympathisers comprised a significant proportion of these mobs, and a sizeable proportion of those involved in the violence.

large crowd and the police, arising from a road picketing incident. The police retreated to the police station, which was then besieged by the crowd of some 1,000 people, and all the windows were smashed.<sup>90</sup> The 1984-1985 British Miners' Strike saw 200 angry miners stone a police station at Maltby near Rotherham in June 1984, and a crowd attack Stainforth police station on 8 November 1984, breaking every window in the building and overturning several cars.<sup>91</sup>

Striker violence against the military took very similar forms to those used against the police, and the same range of motivations for such violence were involved. In Parma, Italy on 19 June 1908 a large crowd of agrarian strikers and their sympathisers gathered outside the railway station to prevent the passage of 380 strikebreakers. When authorities tried 'to clear the large square in front of the station by use of cavalry .... there were violent clashes as the troops, supported at times by "volunteer workers", tried to push the crowd into the adjoining streets. Although they succeeded, riots soon exploded in the center of the city. The scuffles continued for most of the day.'<sup>92</sup>

At Ackton Hall Colliery, Yorkshire, during the events leading to and following the Featherstone "Massacre" of 1893, troops sent to prevent any

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<sup>89</sup> Christopher Farman, **The General Strike May 1926**, (London: Rupert Hart-Davis, 1972), p.192. This confrontation is also described in Renshaw, **The General Strike**, p.18.

<sup>90</sup> Ian MacDougall, 'Edinburgh', in Jeffrey Skelley (ed), **The General Strike 1926**, (London: Lawrence and Wishart, 1976), p.150. Also see Farman, **The General Strike May 1926**, pp.192-193.

<sup>91</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, pp.140 and 141, respectively.

<sup>92</sup> Thomas R. Sykes, 'Revolutionary Syndicalism in the Italian Labor Movement: The Agrarian Strikes of 1907-08 in the Province of Parma', **International Review of Social History**, vol. 21, part 2, 1976, pp.203-204.

further disorder and property damage repeatedly became the targets of stone-throwing. The first contingent of 26 troops, a police inspector and two constables arrived at the colliery after the initial disorder (the overturning of thirteen loaded coal wagons) was over and the mobs responsible had left. Neville emphasises 'that when the soldiers arrived at Ackton Hall Colliery there was "no crowd or disorder" except for about twenty men who derisively jeered the troops.'<sup>93</sup>

News of the arrival of the troops spread rapidly and created an air of excitement in the local community. Crowds of people, some armed with cudgels, began to assemble in the streets and the concourse gradually increased in size. A deputation from the crowd demanded that the troops be removed, and when [the colliery manager] Holiday intimated that this was not within his power he and the police inspector were pelted with stones. The colliery was surrounded, the engine house [where the troops were awaiting the arrival of a JP to read the Riot Act] stoned, all the windows in the building were broken and the crowd taunted the frightened soldiers. One rioter tried, unsuccessfully, to ignite the engine house in order to flush out the troops.<sup>94</sup>

Later that day, in a separate confrontation also involving stone-throwing, these soldiers fired at the rioters, severely wounding two men who later died of their injuries. Two hours after the shootings when a second detachment of ninety soldiers arrived 'they too were pelted with stones.'<sup>95</sup>

The cases of Parma, Italy, and Yorkshire illustrate the usual types of violence used by strikers and their sympathisers against the military: stone-throwing, direct assault, and rioting. Gun battles between strikers and the

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<sup>93</sup> Neville, 'The Yorkshire Miners and the 1893 Lockout', p.345.

<sup>94</sup> Neville, 'The Yorkshire Miners and the 1893 Lockout', p.346.

<sup>95</sup> Neville, 'The Yorkshire Miners and the 1893 Lockout', pp.347-348. Also see Clive Emsley, **The English Police: A Political and Social History**, 2nd edition, (London and New York: Longman, 1996), pp.115-116.

military took place, as in Pittsburgh during the railroad disputes of 1877 and in the Colorado mining strike of 1913-1914,<sup>96</sup> but such incidents were extremely rare outside of the United States.

A number of important motives for striker violence against the military are also clear from the experiences of Parma and Yorkshire. In Parma the military were overtly aiding the defeat of the strike by rendering the blockade of the railway station ineffectual. The reaction of the strikers and their allies was violence. In Yorkshire the deployment of soldiers to Ackton Hall Colliery signalled an unwelcome development in a dispute which had already dragged on for five weeks. Neville suggests 'it may well have been that after five weeks without work, the [striking] miners had become angry and embittered, for acute poverty and hardship increasingly rendered their lives more

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<sup>96</sup> For the Pittsburgh gun battle see Samuel Yellen, **American Labor Struggles**, (New York: Harcourt, Brace, 1936), p.17. For the Colorado gun battles see Yellen, **American Labor Struggles**, pp.231-236; Graham Adams, Jr., **Age of Industrial Violence, 1910-15: The Activities and Findings of the United States Commission on Industrial Relations**, (New York: Columbia University Press, 1966), pp.156-161; Howard M. Gitelman, **Legacy of the Ludlow Massacre: A Chapter in American Industrial Relations**, (Philadelphia: University of Pennsylvania Press, 1988), pp.1-5 and 10-20 (especially pp.1 and 17-20); Howard Zinn, **The Politics of History**, (Boston: Beacon Press, 1970), pp.91-101; Taft and Ross, 'American Labor Violence', pp.330-332; Richard Maxwell Brown, 'Historical Patterns of Violence in America', in Hugh Davis Graham and Ted Robert Gurr (eds), **The History of Violence in America: Historical and Comparative Perspectives**, (New York: Frederick A. Praeger, 1969), pp.74-75; Waddington, **Contemporary Issues in Public Disorder**, p.109; Louis Adamic, **Dynamite: The Story of Class Violence in America**, (Gloucester, Massachusetts: Peter Smith, 1960 [reprint of the 1934 revised edition] ), pp.257-260; Bernstein, **The Lean Years**, pp.157-158; John J. Flagler, **The Labor Movement in the United States**, (Minneapolis, Minnesota: Lerner Publications Company, 1970), pp.64-67; and Max Eastman, 'Class War in Colorado', in Norman S. Cohen (ed), **Civil Strife in America: A Historical Approach to the Study of Riots in America**, (Hinsdale, Illinois: Dryden Press, 1972), pp.162-168. The most infamous incident of the Colorado strike was the Ludlow Massacre and gun battle on 20 April 1914. The numerous gun battles of the following ten days were the response of the strikers to the events at Ludlow.

intolerable.<sup>97</sup> The arrival of the military to protect an employer's property was a provocation, which, when combined with striker frustration, anger, and a desire for vengeance and confrontation (visible in the earlier overturning of the coal wagons), was likely to lead (as occurred) to escalating striker violence.

Each of these motives is a rational reason for protest. In the above cases violence was the form through which this protest was expressed: protest against the state for intervening on the side of employers during industrial disputes.

Sometimes demonstrations by strikers and sympathisers were held to explicitly protest the use or deployment of the military or the militia in industrial conflicts. These protests could also become violent, as in Baltimore in 1877.<sup>98</sup>

State officials were a third target of striker violence. In Yorkshire in 1893 'gangs of [striking] colliers were blocking some of the major roads and demanding toll money from travellers.' On 6 September a Police Superintendent and a Justice of the Peace (JP) 'returning from a riot at Elsecar Colliery were attacked in Hoyland. They were beat about the head and forced to pay a toll.'<sup>99</sup> At Ackton Hall Colliery during the same dispute the JP who read the Riot Act was stoned.

With tremendous patience [JP] Hartley tried repeatedly to persuade the crowd to go home peacefully so that he would not have to read the Riot Act. All his

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<sup>97</sup> Neville, 'The Yorkshire Miners and the 1893 Lockout', p.340. For a full discussion of the variety of factors contributing to the disorder in Yorkshire generally, and the deaths at Ackton Hall Colliery specifically, see Neville, pp.337-357, especially pp.340-341 and 345-354.

<sup>98</sup> Yellen, **American Labor Struggles**, pp.13-14.

<sup>99</sup> Neville, 'The Yorkshire Miners and the 1893 Lockout', p.344.

efforts failed, and he made a final plea to those with intelligence to leave directly as he was about to read the Riot Act, whereupon the troops would be empowered to take action. It was now dark, and Hartley read the Act by the light of a lantern in relative silence, but as soon as he had finished fusillades of stones were hurled in his direction.<sup>100</sup>

The latter violent incident clearly involved protest against the intervention of the State in the industrial dispute. The exact motivation for the first incident is impossible to discern. The attack may have been specifically directed against the state officials for being agents of the State. A second explanation could be that they were simply in the wrong place at the wrong time during a period of widespread disorder and protest associated with the industrial dispute as a whole. The crucial factors are if the miners had known that the two men were state officials, and if this knowledge would have influenced the strikers' actions. The sources do not elaborate on these points. The usefulness of this example is that it reminds the researcher that not all violence against the enforcers of the State's laws was necessarily protest against the involvement of the State (though much was). Violence could be a more generic form of protest concerning the industrial conflict as a whole. Alternatively, both of these motivations could be present and expressed simultaneously. A complex interplay of motivations was possible.<sup>101</sup>

Violence against state property could be used by strikers as both an overt and symbolic form of protest. On the Orgreave picket line in 1984 'a

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<sup>100</sup> Neville, 'The Yorkshire Miners and the 1893 Lockout', pp.346-347.

<sup>101</sup> For a fuller discussion of the range of motivations for violence and other crime against the State during industrial disputes see pp.75-82 of this chapter.

police riot shield was captured and symbolically set alight.<sup>102</sup> Attacks on police stations have already been described above, and many such incidents would have had symbolic as well as overt meaning for those involved.

The theft of state property during strikes has not been examined by labour historians or researchers of the history of crime. From the work of researchers on other periods of protest it appears possible that theft could have been used as a means of protest against the State.<sup>103</sup>

To test the hypothesis that crime may have been used as protest against the State in Wellington in 1913 the crimes perpetrated directly against the State and its enforcers of the law (that is, the police and the military) will be closely examined. The criminal prosecutions which involved individual representatives of the State as the victims will be analysed, as will cases in which the State prosecuted persons whom it felt had been threatening civil order or had perpetrated riotous behaviour, though there was no specific individual victim. Obscene language prosecutions will also be investigated.

The frequency of such crimes and their proportion of total prosecutions will be considered, as will the occupational backgrounds of the accused in these cases. The number of prosecutions during the strike will be compared to the rate of prosecutions in the preceding two years.

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<sup>102</sup> Waddington, *Contemporary Issues in Public Disorder*, p.105.

<sup>103</sup> See Chapter One.

## Chapter 4

### The Use of the Criminal Law during Industrial Disputes - International Perspectives

In June 1913 John Reed claimed that the criminal law, along with excessive violence by the police, was used during the Paterson, New Jersey, silk mills strike of 1913 to repress the strikers and defeat the strike.

There's war in Paterson. But it's a curious kind of war. All the violence is the work of one side - the Mill Owners. Their servants, the police, club unresisting men and women and ride down law abiding crowds on horseback. Their paid mercenaries, the armed detectives, shoot and kill innocent people. Their newspapers, the *Paterson Press* and the *Paterson Call*, publish incendiary and crime-inciting appeals to mob-violence against the strike leaders. Their tool, Recorder Carroll, deals out heavy sentences to peaceful pickets that the police-net gathers up. They control absolutely the Police, the Press, the Courts.<sup>1</sup>

Some would dismiss Reed's account as biased and exaggerated. They would suggest Reed's ideological allegiances, given he was a workers' advocate and reporter for a workers' newspaper, distorted his reporting to the extent that his account had little resemblance to the actual events.

The international research into policing and judicial decisions during industrial disputes, however, provides considerable evidence that such actions as Reed described at Paterson were sometimes more than simply the imagination of the working-class press. In certain instances it is difficult to

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<sup>1</sup> John Reed, 'War in Paterson', in William L. O'Neill (ed), **Echoes of Revolt: The Masses, 1911-1917**, (Chicago: Quadrangle Books, 1966), p.143 [originally published June 1913]. Extract also quoted by Norman S. Cohen (ed), **Civil Strife in America: A Historical Approach to the Study of Riots in America**, (Hinsdale, Illinois: Dryden Press, 1972), p.160.

Kevin Michael Rosswurm, 'A Strike in the Rubber City: Rubber Workers, Akron, and the IWW, 1913', (unpublished MA thesis, Kent State University, Ohio,



describe the role of the police and judiciary using any other term than repressive. In other situations their actions can be interpreted as purely attempts to maintain social order (or minimise disorder) through intensified efforts to police, prosecute and punish offenders. Such a “control response” could contribute to an impression that the criminal law was being misused.

The conclusion suggested by this large body of research is that all major strikes should be examined for evidence of a control response or of repressive activities by the state, the police and the judiciary. Within this thesis such an examination will be conducted for the New Zealand General Strike of 1913, specifically focusing on the use of the criminal law (which has not yet been studied in detail by New Zealand researchers).

To provide a basis for analysis this chapter will explore the international research. First, the findings of three important works on the uses which have been of the criminal law will be presented. These works illustrate that the enforcement of the criminal law was not simply concerned with prosecuting offenders and imposing an appropriate punishment. The enforcement of the criminal law often had considerably greater social and political significance. Next, the precedents and potential for similar uses of the criminal law in New Zealand society in 1913 will be briefly discussed. Then three forms through which the criminal law has been used in response to industrial disputes will be investigated. Section a) will focus upon the theory that the police have often used their legal powers to persecute strikers, or to enact a less malicious “crackdown” on offending, in reaction to heightened social tensions. Section b) will examine the response of the

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1975), p.5 notes that ‘in their effort to break the strike, city police arrested 2,338

judiciary to periods of heightened social tension and civil disorder, and the potential for a “judicial crackdown” will be highlighted. Section c) will discuss ways in which governments have used or modified the criminal law in response to protest movements and strikes. The applicability of these hypotheses for Wellington in 1913 will be tested in Chapter Six.

One of the first social historians of crime to closely examine the use of the criminal law was Douglas Hay. For Hay the criminal law and its extremes of the death penalty and pardon were used ‘to mould the consciousness by which the many submitted to the few’ in eighteenth century England.<sup>2</sup>

Subsequent research has shown that use of the criminal law and the criminal justice system to maintain the dominance of certain social groups was not limited to the eighteenth century. V. A. C. Gatrell convincingly argued that the issues of power and control are crucial to understanding the history of crime and of policing in Britain in the nineteenth and twentieth centuries.

Over the past couple of centuries, the policeman-state protected and still protects an unequal and fissiparous society; and it did so supported by the convenient and enduring belief that most criminals were likely to be found among poorer people. The history of crime, accordingly, is largely the history of how better-off people disciplined their inferiors; of how elites used selected law-breakers to sanction their own authority; .... In these senses, the history of crime is not always about legality - or about liberty, either. Certainly, the rhetoric of liberty, justice and impartiality has always been usefully turned against the pretensions of the great; but those values have been more frequently compromised before the more expedient, discretionary and prejudicial devices of law as they were wielded in practice by policemen,

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people’ during this twenty-two week strike by 8,000 Paterson silk-workers.

<sup>2</sup> Douglas Hay, ‘Property, Authority and the Criminal Law’, in Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson, and Cal Winslow, **Albion's Fatal Tree: Crime and Society in Eighteenth-Century England**, (Harmondsworth,

judges and politicians. Historians might profitably remind themselves that the history of crime is a grim subject, not because it is about crime, but because it is about power.<sup>3</sup>

A related scenario suggested by the work of Ted Robert Gurr is a police or judicial “crackdown” (or control response) on offending during periods of social tension, such as industrial disputes. Gurr hypothesised that ‘elites faced with real or threatened resistance probably intensify efforts at social control across the board, increasing policing, prosecuting, and punishment.’ His study of the response of elites and police in London, Stockholm, Calcutta and Sydney to periods of sectional and class tension from the 1750s to the 1970s provided strong supporting evidence for this hypothesis.<sup>4</sup>

It should be noted that not all “crackdowns” are intended as repressive by those who enact them. The motivation may simply be to prevent or discourage disorder and needless violence. The impact, however, can be very similar to crackdowns which have the explicit intention of thwarting the protest of specific groups. If strikers are successfully prohibited from picketing their former workplace, their strike is usually lost. The outcome is not affected if the motivation for the prohibition was to prevent injuries to the strikers and the general public, rather than to aid the employer against “troublesome” workers. Both types of motivation need to be considered when

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Middlesex: Penguin Books, 1975), pp.25-26, 44, 49-53, 61 and 62-63. (The quote is from p.26).

<sup>3</sup> V. A. C. Gatrell, ‘Crime, Authority and the Policeman-State’, in F. M. L. Thompson (ed), **The Cambridge Social History of Britain 1750-1950**, 3 volumes, (Cambridge: Cambridge University Press, 1990), volume 3, ‘Social Agencies and Institutions’, pp.245-246.

<sup>4</sup> Gurr, ‘The Comparative Analysis of Public Order’, pp.667 and 674. (The quote is from p.667).

evidence of a crackdown is found. In many specific instances the repressive intention of actions by the police or the elite is obvious, examples of which will be presented throughout this chapter.

New Zealand had not been immune to the use of its police force to suppress “dissident” groups prior to 1913, although since the colonial frontier had been tamed by the 1870s its role had mostly been of a benign nature. But when ‘state power or sovereignty seemed under threat ... policemen were readily able to respond to police and/or political decision-makers’ requirements for a tactical shift on the social control continuum back to overt and condign coercion.’<sup>5</sup> Such a ‘tactical shift on the social control continuum’ was implemented in 1913, and to a lesser extent during the 1890 Maritime Strike.<sup>6</sup> The question of whether the State’s law enforcers limited themselves to the role of maintaining civil order, or used the criminal law to repress strikers, will be answered in Chapter Six. Such an analysis will provide valuable evidence on the response of the New Zealand police and judiciary to the 1913 strike and the disorder associated with the strike.

#### **a) Prosecution or Persecution by the Police?**

International research on strikes, violence during strikes and the policing of strikes indicates that the public police have often not acted as the neutral keepers of the peace during industrial disputes.<sup>7</sup> In Germany

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<sup>5</sup> Hill, *The Iron Hand in the Velvet Glove*, pp.2-3.

<sup>6</sup> See Hill, *The Iron Hand in the Velvet Glove*, pp.71-75 and 308-323.

<sup>7</sup> Within this thesis the use of the term ‘police’ refers to publicly funded and operated police forces unless otherwise specified. Special constables and special deputies who were enrolled in public police forces in times of perceived emergencies, and private police, need to be analysed separately from the regular public police. Specials and private police were, for example, often more aggressive, more hostile to strikers and more prone to violence than the regular police.

between 1890 and 1914 'scenes of policemen harassing picketers, conducting strikebreakers to work, or clearing the streets with truncheons and bayonets provided unforgettable (although far from peculiarly Prussian or German) images of the police acting in the service of the rich and powerful.' 'Instances of heavy-handed police repression of strikers remained far more numerous and well publicized than were examples of police resistance to employer wishes.'<sup>8</sup> During the Chicago teamsters' dispute of 1905, Sidney Harring argued, 'it was the Chicago police who broke the backbone of the strike. .... Regular escort service of wagon convoys, guards assigned to wagons, and immediate dispersal of any crowds collecting in the streets broke down the resistance of the strikers and got the wagons moving again. Private goons ['the private strikebreaking forces'] extended the capabilities of the police, but they nonetheless relied on the police for arrests of strikers and strike leaders, for protection of wagon convoys, and for legitimacy'.<sup>9</sup> Similar events have taken place throughout the world.<sup>10</sup>

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<sup>8</sup> Elaine Glovka Spencer, **Police and the Social Order in German Cities: The Düsseldorf District, 1848-1914**, (DeKalb, Illinois: Northern Illinois University Press, 1992), quotes pp.137 and 139 respectively.

<sup>9</sup> Harring, **Policing a Class Society**, p.125.

<sup>10</sup> For further analyses and examples see the remainder of this chapter. Also see David Killingray, 'Guarding the Extending Frontier: Policing the Gold Coast, 1865-1913', in David M. Anderson and David Killingray (eds), **Policing the Empire: Government, Authority and Control, 1830-1940**, (Manchester and New York: Manchester University Press, 1991), pp.121-122 (concerning the Gold Coast of Africa, 1902-1906); Sidney L. Harring and Lorraine M. McMullin, 'The Buffalo Police 1872-1900: Labor Unrest, Political Power and the Creation of the Police Institution', **Crime and Social Justice**, 4, Fall-Winter 1975, pp.5, 10-12 and 13, (concerning Buffalo, New York, 1872-1900); Sidney L. Harring, 'Policing a Class Society: The Expansion of the Urban Police in the Late Nineteenth and Early Twentieth Centuries', in David F. Greenberg (ed), **Crime and Capitalism: Readings in Marxist Criminology**, (Palo Alto, California: Mayfield, 1981), pp.303-305 and 311 (concerning a wide range of strikes in eighteen large and middle-sized cities in the United States between 1877 and 1915); and Phil Scraton, 'From Saltley Gates to

The police generally acted as agents of the powerful and wealthy during industrial disputes, whether intentionally or through the enactment of law which was class-biased. Lawrence M. Friedman has described the United States police in the late nineteenth century as 'an army of the status quo. They took the side of law and order, and this often meant the side of the employer, the factory owner, the boss. It would not exaggerate much to call the police, in some cases, strikebreakers plain and simple.' 'The police, in short, were invaluable agents of the employer side. .... the main point, beyond a doubt, was more deeply ideological: the police ranged themselves on the side of the constituted order. They were the servants of power and wealth.'<sup>11</sup> The conclusion R. B. Walker reached concerning Australia in the late nineteenth century adds a valuable dimension to Friedman's ideas. 'In industrial disputes they [the colonial governments] publicly adhered to the principle of neutrality; in practice the law was so constituted that its 'neutral'

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Orgreave: A History of the Policing of Recent Industrial Disputes', in Bob Fine and Robert Millar (eds), **Policing the Miners' Strike**, (London: Lawrence and Wishart, 1985), pp.156-157 (concerning the 1981 Laurence Scott engineering works dispute in Manchester, England). The Laurence Scott dispute involved a particularly clear example of overt and premeditated collusion between an employer and senior police. Scraton discusses the considerable police assistance provided to protect the employer's creative strikebreaking technique. A large number of police were deployed hours in advance to control twenty or so pickets while two helicopters landed inside the factory walls and airlifted goods and equipment to customers. The strikers had no warning an airlift was to take place, senior police obviously knew in advance, and this action was successful in defeating the strike. For a useful general discussion of strikebreaking activity by United States police from the 1860s to the 1930s see Tony Platt, Jon Frappier, Gerda Ray, Richard Schauffler, Larry Trujillo, Lynn Cooper, Elliott Currie, and Sidney Haring, **The Iron Fist and the Velvet Glove: an Analysis of the U.S. Police**, 3rd edition, (San Francisco: Crime and Social Justice Associates, 1982), pp.12, 16, 17, 23-24, 25, 26-28, 29, 39-40 and 42.

<sup>11</sup> Lawrence M. Friedman, **Crime and Punishment in American History**, (New York: Basic Books, 1993), quotes pp.104 and 105 respectively.

enforcement favoured capital rather than labour.'<sup>12</sup> The police did not have to go beyond the boundaries of the law to repress strikes (though in many cases individual police officers did). Walker's finding is also a useful reminder that not all police actions which can be interpreted as detrimental to strikers and their cause were necessarily intended to be harmful. Some police, probably many, were doing their duty and nothing more.

The range of ways in which the police could aid employers and hinder or help to defeat strikes was diverse as is clear from the work of Spencer, Haring and Friedman: including escorting strikebreakers, violence, arrests, the dispersal of crowds and guarding employer property. Those repressive repertoires of policing (to borrow and modify Charles Tilly and Sidney Tarrow's term) associated with the criminal law will now be explored, to help develop a series of tests which can be applied to specific strike situations.<sup>13</sup> The focus for this discussion will be the repressive repertoires of policing which utilised the criminal law or which would have been considered and prosecuted as criminal acts if they had not been committed by the enforcers of that law.

In any analysis of the policing of social conflict the role of the government cannot be ignored. The government, whether local, regional or national, is the employer of the police. During periods of social tension the government will often direct the police as to the type of policing the situation

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<sup>12</sup> Walker, 'Violence in Industrial Conflicts in NSW late 19th C', p.63. For a useful related analysis of class bias in American law see Platt, et al., **The Iron Fist and the Velvet Glove**, pp.11-13.

<sup>13</sup> For Tarrow's use of the term "repertoires of contention" see Sidney Tarrow, **Power in Movement: Social Movements and Contentious Politics**, 2nd edition, (Cambridge and New York: Cambridge University Press, 1998), especially chapters 2

requires. The enforcement of the criminal law can be lenient or strict. Demonstrations and picket lines can be allowed, banned, or limited to a certain size and to certain places. In this chapter, and the thesis as a whole, the discussions of the policing of the criminal law will generally focus on the police themselves. The police are those who choose to make the majority of arrests and whose wide powers of discretion within the existing criminal law decide which acts are criminal and which are permissible within a given situation. Government directives will have little impact if the police decide not to implement them: no or few arrests can be justified by individual police as due to a lack of criminal actions, rather than the subversion of policy directives. Where evidence is available to indicate or demonstrate the influence of the government on policing decisions related to the criminal law this will be discussed. A related issue is the degree of similarity in the attitudes of high-ranking commissioned police officers and ordinary constables towards "criminal" behaviour and protesters, strikers and similar "potentially disorderly" groups. Any divergence or conflict between those who issue the orders and those who are supposed to carry them out during periods of social tension will be noted.

The most visible form of police repression against strikers has been the use of unnecessary or excessive violence on picket lines and at demonstrations.<sup>14</sup> Evidence indicates at least two unionists 'died within

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and 6. For a useful discussion of Charles Tilly's uses of "repertoires of contention" see Tarrow, **Power in Movement**, pp.30-32.

<sup>14</sup> The discussion of police violence related to industrial disputes in this chapter is not intended to be definitive. Such an international analysis would require a thesis in itself, if not more than one. The aim of this section is to indicate the potential for, and some of the varieties of, police violence, so as to provide a basis for the analysis in later chapters of this thesis and for future research.



several months of injuries inflicted by police in the clashes of early 1930' associated with the 1929-1930 northern New South Wales coal miners' lockout.<sup>15</sup> Romano Canosa and Donatella della Porta have argued that in Italy in the late 1940s and 1950s 'the primary means of keeping public order was the use of firearms by policemen against protestors, strikers, peasants who occupied land, etc.'<sup>16</sup> For della Porta 'the fact that almost 100 demonstrators died in the 1940s and 1950s when police charged go-ins and sit-ins using firearms is a grim testament to the truth of this statement.'<sup>17</sup> For

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For useful analyses of police violence during industrial disputes and changes in such violence over time in Britain between 1893 and 1985 see Geary, **Policing Industrial Disputes 1883 to 1985**, especially pp.40-45, 64-66, 69-70, 85-86, 89-90, 109-115 and 144-145; and Robert Reiner, 'Policing Strikes: An Historical 'U' Turn', **Policing**, vol. 1, no. 3, Summer 1985, pp.138-141, 143 and 144. Also see Waddington, **Contemporary Issues in Public Disorder**, pp.96-107 for a critique and revision of some of Geary's ideas concerning industrial dispute violence.

For a useful general examination of police violence and brutality (focusing on the 1980s and 1990s) see William A. Geller and Hans Toch (eds), **Police Violence: Understanding and Controlling Police Abuse of Force**, (New Haven and London: Yale University Press, 1996). James Q. Wilson, **Varieties of Police Behaviour: The Management of Law and Order in Eight Communities**, (Cambridge, Massachusetts: Harvard University Press, 1968) pp.44-48, writing on the United States in the 1960s, also raises a number of important issues worthy of consideration. Neither Geller and Toch (eds) nor Wilson specifically examine police violence during industrial disputes.

<sup>15</sup> Miriam Dixon, 'Stubborn Resistance: The Northern New South Wales Miners' Lockout of 1929-30', in John Iremonger, John Merritt and Graeme Osborne (eds), **Strikes: Studies in Twentieth Century Australian Social History**, (Sydney: Angus and Robertson, 1973), p.140. Also see Dixon, 'Rothbury', p.25. These deaths were in addition to the earlier accidental death at Rothbury of Norman Brown, a locked out miner, on 16 December 1929. Brown, who was well clear of a developing confrontation between pickets and police, was killed by a police bullet which ricocheted. (For a useful analysis of the circumstances of Brown's death see Dixon, 'Rothbury', pp.14 and 17-19).

<sup>16</sup> Romano Canosa, **La Polizia in Italia dal 1945 ad oggi**, (Bologne: Il Mulino, 1976), p.181, translated and quoted in Donatella della Porta, 'Social Movements and the State: Thoughts on the Policing of Protest', in Doug McAdam, John D. McCarthy and Mayer N. Zald (eds), **Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings**, (Cambridge and New York: Cambridge University Press, 1996), p.67.

<sup>17</sup> della Porta, 'Social Movements and the State', p.67.

Harring 'the two great [Chicago] garment workers' strikes of 1910 and 1915 demonstrated that the Chicago police department had degenerated into little more than the hired sluggers of the manufacturers.'<sup>18</sup>

Their major antistrike tactic was wholesale clubbing of strikers, carried out on such an extensive scale and in so cold-blooded a manner that the strikers won considerable support from "reform" women's groups and anti-machine aldermen. The pattern of clubbing in both strikes was similar: clubbings were wholesale and indiscriminate, directed against both strikers and any member of the public at large who looked out of place in the strike district. Large numbers of women were clubbed by the police, with no attempt to hide their actions.<sup>19</sup>

Police initiated violence was a feature of the strike of 16,000 rubber workers in the small industrial city of Akron, Ohio in 1913. The strike had progressed peacefully for three weeks until the events of 7 March. Five hundred strikers 'had formed a human chain in front of the Goodrich plant when Sheriff Fergusson asked the pickets to move across the street. As the crowd began to move it was charged by 20 Akron police officers, reinforced by 30 special deputies'. Sixty strikers and one police officer were injured in 'the vigorous wielding of clubs' which followed. 'The organized beating had a devastating effect on the strikers. This scene was repeated throughout the next two [working] days, with squads of police and specials attacking workers' assemblies. The indiscriminate nature of the police clubbing can be seen in

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<sup>18</sup> Harring, **Policing a Class Society**, p.125.

<sup>19</sup> Harring, **Policing a Class Society**, p.126; and see pp.126-127. Gerda W. Ray notes that many of the women who were 'savagely beaten' by the Chicago police were strikers. (Gerda W. Ray, 'Police Forces', in Wilma Mankiller, Gwendolyn Mink, Marysa Navarro, Barbara Smith, and Gloria Steinem (eds), **The Reader's Companion to U.S. Women's History**, (Boston and New York: Houghton Mifflin Company, 1998), p.453).

the fact that Sheriff Fergusson was accidentally struck in the face by a special deputy.<sup>20</sup>

The history of industrial relations in Britain has also been marred by incidents of excessive and indiscriminate police violence and brutality on picket lines and at demonstrations. Roger Geary has found 'considerable evidence that the police engaged in indiscriminate violence when attempting to deal with strike disturbances' during the South Wales miners' strike of 1910. 'Newspaper reports, such as the following from *The Times*, suggest that all the members of a crowd became targets for the police batons irrespective of whether or not they had actually committed an offence: "That the police are using their batons with effect is obvious from the number of bandaged and bleeding ears which are to be seen. They have no time to discriminate and it is a case of "Whenever you see a head hit it!"'.<sup>21</sup>

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<sup>20</sup> Harring, **Policing a Class Society**, p.130. Also see Rosswurm, 'A Strike in the Rubber City', pp.77-81. Rosswurm (p.78) describes how another policeman, detective Martino, was clubbed unconscious by a special deputy on 7 March. Sheriff Fergusson was struck on 8 March (Rosswurm, p.79). It should be noted there are a few conflicts in the details presented by Harring and Rosswurm. For example, Rosswurm (p.52) states the number of strikers reached a peak of 16,000 in the middle of February 1913, while Harring (p.130) writes 20,000 workers walked out of the rubber plants on 10 February. The location of the speeches by the Wobblies and Socialists on 7 March can also be interpreted differently from the two accounts. Rosswurm's account appears the more precise on this point. Both authors, however, agree on the location, extent and nature of the police violence, as well as agreement on the other major aspects of the dispute, including the considerable hostility of city officials to the strike. For another United States example and detailed description of unnecessary and excessive police violence against strikers (from the Oshkosh, Wisconsin woodworkers' strike of 1898) see Harring, **Policing a Class Society**, p.129. For a more general discussion and summary involving cases drawn from eighteen cities in the United States between 1877 and 1915 see Harring, 'Policing a Class Society' (1981), pp.304-305.

<sup>21</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, p.40; also see pp.40-43. The quote from **The Times** is dated 9 November 1910.

Similarly indiscriminate police violence accompanied the Glasgow general strike of 1919. 'On Friday 31 January a large, but orderly, crowd of strikers had assembled in St George's square outside the City Chambers. The police decided to clear a path through the crowd, by mounting a baton-charge on the strikers and spectators in the way. This police action was carried out, according to the *Glasgow Herald*, with:

a vigour and determination that was a prelude to the extraordinary scenes which the Square was afterwards to witness, and to which the city, with all its acquaintance with labour troubles, can happily offer no parallel. A strong body of police ... swept the crowd in front of them, raining a hurricane of blows which fell indiscriminately on those actually participating in the strike and on those who had been down to the scene merely through curiosity.<sup>22</sup>

Geary argues that 'this account constitutes particularly impressive evidence of police brutality since it appears in a newspaper that was very unsympathetic towards the strikers. Indeed, the editor described the formation of the Strike Committee as "the first step towards that squalid terrorism which the world now describes as Bolshevism". An editor with such a viewpoint would hardly be likely to overemphasise indiscriminate violence on the part of the police.'<sup>23</sup>

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<sup>22</sup> Geary, *Policing Industrial Disputes 1883 to 1985*, p.64. The quote from the *Glasgow Herald* is dated 1 February 1919. Hugh Armstrong Clegg, *A History of British Trade Unions Since 1889, volume 2: 1911-1933*, (Oxford: Clarendon Press, 1985), p.270, agrees that 'the police cleared the square with a good deal of brutality.' For another useful discussion of the police behaviour (or misbehaviour) in Glasgow on 31 January 1919 see Iain McLean, 'Popular Protest and Public Order: Red Clydeside, 1915-1919', in Roland Quinault and John Stevenson (eds), *Popular Protest and Public Order: Six Studies in British History 1790-1920*, (London: George Allen and Unwin, 1974), pp.230-231 and 237.

<sup>23</sup> Geary, *Policing Industrial Disputes 1883 to 1985*, p.64. The quote from the *Glasgow Herald* is dated 19 April 1919.

For further examples presented by Geary of police brutality in Britain related to crowd control during industrial disputes see Geary, *Policing Industrial Disputes 1883 to 1985*, pp.44-45 (1911 national railway strike), 64-65 (1926 General Strike), 85-86 (the mass picketing at Grunwick Processing Laboratories in 1977), 109 (dispute

Police brutality on the picket line was again evident during the British Miners' Strike of 1984-1985. McCabe and Wallington vividly describe a number of examples of police officers using 'unnecessary and unjustifiable force' against strikers. In one case an 'observer witnessed an incident at Kiveton Park Colliery on 22 August 1984. He was on his way to the nearby railway station and stopped at the picket line to speak to a friend. Seeing the police bearing down on the pickets he moved off but heard and saw one policeman kicking a youth to the ground. This police officer was joined by three others who kicked the youth for fully three or four minutes. He went on: "Another collier was on the ground being kicked by another group of policemen. After they had had a good kicking the two pickets were dragged back towards the colliery gates." He ends his report: "I did think for a moment of stopping one of the officers and asking why none of them were displaying their numbers, but I was honestly under the impression that anyone who got in the way of the police on that particular morning would have been flattened".<sup>24</sup> Two months earlier a television camera captured 'the

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not specified), 110-111 (1972 miners' strike), 111-112 (1980 steel strike), and 144-145 (1984-1985 miners' strike). Also see Morgan, **Conflict and Order**, pp.199-200 (concerning the 1925 anthracite miners' strike in Carmarthenshire, South Wales), and 206-207 (1926 national coal strike); Susan Bhaumik, 'The Strike in the Regions: Glasgow', in Margaret Morris, **The General Strike**, (Harmondsworth, Middlesex: Penguin Books, 1976), p.407 (Glasgow, 1926 General Strike); and Scraton, 'From Saltley Gates to Orgreave', p.158 (concerning 'the indiscriminate truncheoning of pickets' associated with the Warrington Messenger newspaper dispute of 1983). For an intriguing analysis of influences on and regional variations in police violence against British miners in the 1920s and 1930s see Barbara Weinberger, 'Police Perceptions of Labour in the Inter-War Period: The Case of the Unemployed and of Miners on Strike', in Francis Snyder and Douglas Hay (eds), **Labour, Law, and Crime: An Historical Perspective**, (London and New York: Tavistock Publications, 1987), pp.150-151, 152-153, 154, 158-159 and 163-175.

<sup>24</sup> Sarah McCabe and Peter Wallington, **The Police, Public Order, and Civil Liberties: Legacies of the Miners' Strike**, (London and New York: Routledge, 1988), p.81. Also see McCabe and Wallington, p.81; Phil Scraton, **The State of the**

violent attack upon a fleeing picket by a police officer at Orgreave.’ McCabe and Wallington argue that ‘the truncheon blow appeared to be quite gratuitous and without the justification of self-defence which police officers can put forward in less public circumstances. Yet no official action was taken, apart from a swift reference to the Director of Public Prosecutions, who advised that the evidence available was not strong enough for a conviction.’<sup>25</sup>

Less frequently, police violence targeted groups or individuals distant from the sites of mass protest. In Draveil, France in 1908 ‘police shot dead two union organizers by firing unprovoked through the windows of the strike headquarters.’<sup>26</sup> A National Union of Mineworkers (NUM) Branch Secretary interviewed by Geary reported being assaulted by police for no justifiable reason while walking home from a picket line during the 1984-1985 British Miners’ Strike. ‘I was walking back home with two mates when police van pulls up and out gets four or five coppers and they just laid into us. I got cut lips and big bruises - others were worse. Eric’s nose got broke - we didn’t resist at all. All of us were in our fifties. It’s destroyed what little faith I had left in police I can tell you.’<sup>27</sup> In connection with the 1892 switchmen’s strike

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**Police**, (London: Pluto Press, 1985), pp.1-5; and John Field, ‘Police Monitoring: The Sheffield Experience’, in Bob Fine and Robert Millar (eds), **Policing the Miners’ Strike**, (London: Lawrence and Wishart, 1985), pp.209-210, for further examples of similar police violence during the 1984-1985 miners’ strike.

<sup>25</sup> McCabe and Wallington, **The Police, Public Order, and Civil Liberties**, p.88, and see p.77. McCabe and Wallington (p.88) also note: ‘(It is, of course, generally accepted that the prosecution of members of the police force is not undertaken without much stronger evidence than is thought to be appropriate in other cases).’ For an extremely useful analysis of the variety of causes of the force and violence (justifiable and unjustifiable) used by both the police and strikers at Orgreave see Waddington, **Contemporary Issues in Public Disorder**, pp.95 and 104-107.

<sup>26</sup> Magraw, **A History of the French Working Class, vol.2: Workers and the Bourgeois Republic 1871-1939**, p.113. This dispute involved quarry workers.

<sup>27</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, pp.144-145. The location of the incident is not stated by Geary to protect the identity of the union officials and

in Buffalo 'railroad workers and their supporters were beaten [by the city police] blocks away from the strike district.'<sup>28</sup>

Unnecessary brutality by the police against strikers was possible within police stations as well. In Stockport, England on 22 November 1967 six pickets were arrested in connection with scuffles between pickets and police that day. 'Three of the six men arrested appeared in court the next morning with broken noses, severe bruising and in one case a neck injury. One of the pickets was so badly injured that he collapsed outside the court and had to be taken to hospital. The men alleged that they had been beaten at the police station and told to shout "Mercy, mercy". Although an enquiry conducted by an officer from another force concluded that three Stockport policemen had a case to answer for "assault occasioning actual bodily harm" no criminal or even disciplinary charges were brought. Nevertheless, £2,280 agreed damages were paid to the men by the police.'<sup>29</sup> A number of striking asbestos workers in Quebec in 1949 were arrested, 'badly beaten and subjected to hours of interrogation without counsel' by the provincial police.<sup>30</sup>

From the events at Draveil, at Stockport, and in Quebec it is clear that research on police violence and physical repression associated with industrial

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police officers he interviewed or had informal discussions with. See Geary, pp.2-4 for his methodology and the number of interviews and informal discussions conducted. For further examples from the 1984-1985 strike of unnecessary police violence distant from the picket line or demonstration see McCabe and Wallington, **The Police, Public Order, and Civil Liberties**, pp.73 and 83; and Scraton, **The State of the Police**, pp.4-5.

<sup>28</sup> Harring, 'Policing a Class Society' (1981), p.305.

<sup>29</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, pp.69-70. The strike in Stockport involved workers at the Roberts-Arundel textile machinery manufacturing factory. For a 'similar but less serious incident' of police brutality during the 1972 British miners' strike see Geary, **Policing Industrial Disputes 1883 to 1985**, pp.112-113.

disputes benefits from being more broadly focused than simply the locations of picket lines and demonstrations.

Abuses of the power of the police to make arrests and prosecutions on questionable charges have also taken place during strikes. In Lawrence, Massachusetts in 1912 and during the British Coal Strike of 1984-1985 police arrested and detained hundreds of strikers against whom no charges were ever made. Of the 9,808 persons arrested in England and Wales in connection with the 1984-1985 dispute, 1,891 (almost 20 percent) were never charged.<sup>31</sup> Many of these instances were simply random arrests and acts of intimidation against strikers by the police.<sup>32</sup>

Evidence of the questionable basis for many arrests where charges were laid is the high number of cases which were eventually withdrawn. In the Strathclyde region of Scotland 745 people were arrested and charged in relation to the 1984-1985 coal strike. The charges were dropped in 436 (59 percent) of these cases.<sup>33</sup> Stuart Jamieson has reached a similar conclusion

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<sup>30</sup> Jamieson, **Times of Trouble: ... Canada, 1900-66**, pp.330 and 331; the quote is from p.330.

<sup>31</sup> Lens, **The Labor Wars**, p.176; McCabe and Wallington, **The Police, Public Order, and Civil Liberties**, pp.161-162 and 104 (note 14).

<sup>32</sup> For examples see McCabe and Wallington, **The Police, Public Order, and Civil Liberties**, pp.94-96 and 88; and Scraton, **The State of the Police**, p.2. John Field, 'Police Monitoring: The Sheffield Experience', p.209, has reached a related and compatible conclusion with the argument presented above concerning many arrests during the 1984-1985 miners' dispute: 'At picket lines, arrests were often arbitrary, and appeared to follow unexplained changes in the ground-rules being imposed by the police; often, men were being arrested simply to reinforce the authority of a new force as it replaced a previous shift.' For a discussion of other forms of intimidation and harassment used by the police during the 1984-1985 miners' strike see Cathie Lloyd, 'A National Riot Police: Britain's "Third Force"?', in Bob Fine and Robert Millar (eds), **Policing the Miners' Strike**, (London: Lawrence and Wishart, 1985), pp.68-70.

<sup>33</sup> McCabe and Wallington, **The Police, Public Order, and Civil Liberties**, p.164. In the rest of Scotland 738 persons were arrested and charged. Only one of



concerning Canadian coal mining disputes of the 1930s. 'In general, the record of the years 1930 to 1935 in coal mining is a monotonous recital of dozens of strikes and arrests in the hundreds. Strikers were arrested, not just for violence, but for such minor reasons as "violation of the I.D.I. Act" (i.e., going on strike without first applying for conciliation). In many cases, the purposes of the arrests were revealed by the withdrawal of charges as soon as the strikes were ended.'<sup>34</sup>

Stuart Svensen's study of the Queensland shearers' strike of 1891 provides numerous vivid examples of repressive and unjustified arrests and prosecutions of strikers, and the subsequent withdrawal of charges or acquittal of the unionists.

One of the problems faced by the government at the end of the [shearers'] war [i.e. the strike] was what to do with the dozens of unionists who were still in custody, but who had not yet been tried. It could hardly let them stand trial, for there was little or no evidence against them. Nor could the gaoled unionists be released immediately, for that would have been a tacit admission that they had been unfairly arrested. Most of the men involved were held until a week before their trial date, then released.<sup>35</sup>

Queensland Colonial Secretary 'Tozer was ordering the arrest of people against whom there was not the slightest shred of evidence. Of the 163 charges laid against unionists which were serious enough to warrant trial by

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these cases was not proceeded with. (p.164). It should also be noted that in Scotland only 21 of the 1,504 persons arrested were not charged. (p.164). Also see Peter Wallington, 'Policing the Miners' Strike', *The Industrial Law Journal*, vol. 14, no. 3, 1985, p.150; especially footnote 24.

<sup>34</sup> Jamieson, *Times of Trouble: ... Canada, 1900-66*, p.221. Also quoted in Lorne Brown and Caroline Brown, *An Unauthorized History of the RCMP [Royal Canadian Mounted Police]*, (Toronto: James Lewis & Samuel, 1973), p.68.

<sup>35</sup> Svensen, *The Shearers' War*, p.192.

jury, the government' only obtained 22 convictions.<sup>36</sup> It could be argued that pro-union juries, rather than police bias generated this very low conviction rate. However, the large number of charges which were withdrawn, and thus never went before a jury, indicates that pro-union juries cannot be the only explanation for the low conviction rate.<sup>37</sup>

The charges on which such questionable arrests were made in Queensland ranged from conspiracy and intimidation to arson, and from assault to vagrancy.<sup>38</sup> Dubious charges relating to the 1984-1985 British Miners' Strike which were withdrawn or resulted in acquittals included threatening behaviour, breach of the peace, insulting language, obstruction of the highway, and unlawful assembly.<sup>39</sup> A number of the acquittals were due to the prosecution offering no evidence against the accused.<sup>40</sup>

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<sup>36</sup> Svensen, **The Shearers' War**, p.186.

<sup>37</sup> Svensen, **The Shearers' War**, does not state the exact number of charges which were dismissed by juries, nor the number which were withdrawn before trial. The conclusion that many serious charges were never placed before a jury is an impressionistic one generated from Svensen's detailed discussions of the arrests, charges, prosecutions and trials related to the 1891 strike (pp.86, 101-104, 110-111, 122-123, 126, 132, 133, 134, 135, 141-142, 143-145, 157, 167, 180, 190-193, 197 and 304). A number of charges were also dismissed at committal hearings (for two examples see pp.102 and 167). A more definitive conclusion may be possible through examining Queensland State Archives COL / 414 (b) 'List of offences committed in the areas affected by the shearers' strike' (reference from Svensen, pp.325 and 311, notes 58 and 68).

<sup>38</sup> For examples see Svensen, **The Shearers' War**, pp.86, 101-104, 110-111, 122-123, 126, 132, 133, 134, 135, 140, 141-142, 143-145, 156, 157, 167, 180, 189, 190-193, 197, 246, 253-254 and 304.

<sup>39</sup> McCabe and Wallington, **The Police, Public Order, and Civil Liberties**, pp.94-95, 96 and 99-100. Rioting could be included in the above list, since there were no convictions from 295 riot charges in England and Wales. Rioting has been left out because linking such charges to police bias is extremely problematic in late twentieth century Britain. As McCabe and Wallington (pp.99 and 104 (note 18) ) observe charges of riot are difficult to sustain and create some grave evidential problems. In some other contexts the repressive use of the charge riot can be clearly seen, as in the example of Estevan, Canada in 1931 discussed later in this chapter. For discussion of the riot charges arising from the 1984-1985 strike see McCabe and Wallington, pp.75,

Writing more generally on the relations of power and control between the police and workers Haring and McMullin argue that arrests and prosecutions for 'offenses such as disorderly conduct, vagrancy, tramp, drunkenness can be freely used to control any group of working class people if the police are so inclined.'<sup>41</sup> One of the examples Haring and McMullin present to support their argument provides further evidence of the broad range of charges which could potentially be used by police against "troublesome" strikers. 'The year 1894 is most noted in [American] labor history for the Pullman Strike, one of the nation's most widespread strikes involving the railroad unions. Buffalo, a major railroad center, also saw a great deal of strike activity. The arrest rate that year rose by 35 percent, almost entirely in arrests for vagrancy, tramps, and disorderly conduct.'<sup>42</sup> In a separate article Haring provides specific examples of strikers being arrested and imprisoned as tramps in Buffalo during the 1892 railroad switchmen's strike.<sup>43</sup>

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90 (note 16), 99, 100, 104 (note 18), 162, 164 and 165. The figure of 295 riot charges is given on p.162. Also see Wallington, 'Policing the Miners' Strike', p.151, concerning unlawful assembly charges related to the miners' strike.

<sup>40</sup> For examples see McCabe and Wallington, **The Police, Public Order, and Civil Liberties**, pp.94-95 and 165.

<sup>41</sup> Haring and McMullin, 'The Buffalo Police 1872-1900', p.12.

<sup>42</sup> Haring and McMullin, 'The Buffalo Police 1872-1900', p.12. For a more detailed discussion of tramp and vagrancy laws and particularly their repressive use in Buffalo from 1892-1894 see Sidney L. Haring, 'Class Conflict and the Suppression of Tramps in Buffalo, 1892-1894', **Law and Society Review**, vol. 11, no. 5, Summer 1977, pp.873-911. This article (p.886) also provides a detailed breakdown of 'Arrests for Major Public Order Crimes by Specific Offence in Buffalo: 1886-1900'. In 1893 there were 1,820 arrests for vagrancy and 1,925 for being a tramp; in 1894 there were 4,764 arrests for vagrancy and 4,716 for being a tramp; in 1895 arrests almost returned to their 1893 levels with 1,690 and 2,464 arrests on the respective charges. For a useful summary of this article see Haring, 'Policing a Class Society' (1981), pp.306-307.

<sup>43</sup> Haring, 'Class Conflict and the Suppression of Tramps in Buffalo, 1892-1894', p.889, and see pp.886-887 and 907 for Haring's general comments concerning

Research on policing in Britain has highlighted similar opportunities for repressive use of the criminal law as those found by Harring and McMullin. Barbara Weinberger perceptively comments: 'Offences such as obstruction or behaviour likely to cause a breach of the peace are so imprecise that virtually any public behaviour could be made an arrestable offence. To talk of the police duty to enforce the law for such [public order] offences is a fiction, since the law is here reduced to a tool for the police to use as they find necessary.' In addition, the English or Welsh constable's 'independence, is further strengthened by the judicial system in which he operates, whereby the decision on whether to prosecute and what charges to lay is left to the individual policeman.'<sup>44</sup> The potential for unjustified arrests and charges is clear.

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these types of arrests. It is not entirely clear whether these strikers were arrested for being strikers, or because they were mistaken for tramps, though presumably they would have protested their innocence. In either case, the purpose of the arrests was to help defeat the strike. The Buffalo Chief of Police had ordered the city to be cleared of tramps one week into the strike to ensure tramps did not join with, or incite, the strikers (pp.888-889 and see pp.880, 881, 882-883, 890 and 893-894). It should be noted that American "tramps" of the 1890s included many unionists (skilled and unskilled) and some socialists who were unemployed due to the major economic depression, some union organisers, and also large numbers of itinerant or migratory workers (see pp.875-876, 881, 895 and 905). For Harring's analysis of the relationship between tramp or vagrancy arrests and strikes see pp.879, 880, 881, 882, 886-887, 888-890 and 907.

<sup>44</sup> Barbara Weinberger, **Keeping the Peace? Policing Strikes in Britain, 1906-1926**, (Oxford and New York: Berg Publishers Limited, 1991), pp.2 and 1 respectively. In Scotland the Lord Advocate rather than the police has historically had, and continues to have, responsibility for prosecutions. (Wallington, 'Policing the Miners' Strike', p.151; and Douglas Hay and Francis Snyder, 'Using the Criminal Law, 1750-1850: Policing, Private Prosecution, and the State', in Douglas Hay and Francis Snyder (eds), **Policing and Prosecution in Britain 1750-1850**, (Oxford: Clarendon Press, 1989), pp.28-29 and 32-33). Wallington, 'Policing the Miners' Strike', p.151, also usefully notes that breach of the peace in Scottish law is an even broader offence than in English law.

Specific British industrial disputes in which questionable arrests under the criminal law have been made include the 1984-1985 miners' strike (as already discussed), the 1926 general strike and miners' dispute, and the 1976-1978 Grunwick dispute (a mail-order film processing factory). A total of 7,960 persons were prosecuted in connection with the 1926 general strike and miners' lockout.<sup>45</sup> Of the 7,316 persons whose cases had been disposed of by 24 January 1927, 1,175 (16 percent) had the charges against them withdrawn or dismissed.<sup>46</sup> In May 1977 the convictions of six pickets for obstructing the highway outside Grunwick's Chapter Road premises were quashed on appeal by the Middlesex Crown Court. The ruling was made 'that in certain circumstances people could obstruct the pavement if they were peacefully picketing.' 'The court severely reprimanded the police for using the pretext that more than six pickets were an obstruction and took the extremely unusual step of awarding costs of £3,500 against the police.'<sup>47</sup> In March 1977

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<sup>45</sup> Morgan, **Conflict and Order**, p.211. For discussions of the prosecutions arising from just the General Strike (03 to 12 May 1926) see Geary, **Policing Industrial Disputes 1883 to 1985**, pp.65-66; Morgan, **Conflict and Order**, p.209; Barbara Weinberger, 'Communism and the General Strike: Documentary Essay', **Society for the Study of Labour History Bulletin**, no. 48, Spring 1984, pp.31-33; G. A. Phillips, **The General Strike: The Politics of Industrial Conflict**, (London: Weidenfeld and Nicolson, 1976), pp.203-205; Farman, **The General Strike May 1926**, pp.199-201; and Renshaw, **The General Strike**, pp.18-19 and 169. There is some disagreement among these authors concerning the exact number of prosecutions and arrests.

<sup>46</sup> Morgan, **Conflict and Order**, p.210 (footnote 73).

<sup>47</sup> Jack Dromey and Graham Taylor, **Grunwick: The Workers' Story**, (London: Lawrence and Wishart, 1978), pp.85, 86-87 and 91; the quotes are from p.91. Also see Scraton, 'From Saltley Gates to Orgreave', pp.152-153; and Joe Rogaly, **Grunwick**, (Harmondsworth, Middlesex: Penguin Books, 1977), p.124. (It should be noted that Rogaly gives the wrong year on p.124: the relevant date is February 1977, not February 1976). The alleged offences took place on 01 November 1976, seven months before the mass picketing began. The entire picket line of nine pickets were arrested on that date, six of whom were found guilty at Willesden Magistrates' Court on 24 February 1977. Labour Party Councillor Cyril Shaw was

Jack Dromey, one of the members of the Grunwick Strike Committee, was arrested for the use of insulting words towards a policeman. Dromey reports his exact words were "You're nothing but a company force", and were provoked by abusive comments from the policeman concerned. The police later added the charge of 'insulting behaviour and obstruction of a police officer in the course of his duty', concerning the same incident. Dromey was acquitted on all charges.<sup>48</sup> These examples, along with the others analysed within this chapter, provide valuable evidence of the incidence and forms of dubious arrests and prosecutions of strikers and their supporters. They also demonstrate that such problematic use of the criminal law has not been limited to one country or one continent.

Situations where only a small fraction of the strikers arrested were given significant sentences suggest further instances of dubious arrests and prosecutions. For example, during the 1909-1910 New York women clothing workers dispute 771 pickets were arrested, of whom 19 were given jail terms in the workhouse and 248 fined.<sup>49</sup> If most of these charges had been legitimate a higher number of serious sentences would be expected.

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one of those arrested but not convicted. (Dromey and Taylor, pp.8, 9, 85, 86-87 and 91). For useful analyses of the mass picketing of 1977, its policing and related violence see Geary, **Policing Industrial Disputes 1883 to 1985**, pp.84-88; McCabe and Wallington, **The Police, Public Order, and Civil Liberties**, pp.46 and 70; Waddington, **Contemporary Issues in Public Disorder**, pp.97 and 100-101; Dromey and Taylor, **Grunwick**, pp.10-11, 103-114, 118-153, 156, 160, 161, 165-179 and 192-197; and Rogaly, **Grunwick**, pp.68-69, 77-90, 96-97, 98, 103-105, 107-115 and 122-136.

<sup>48</sup> Dromey and Taylor, **Grunwick**, p.90, and see p.85. For more details on Dromey's role in the Grunwick dispute see Dromey and Taylor, pp.8-9, 55, 57, the outside back cover, and p.202 (the index listing for Dromey, Jack); and Rogaly, **Grunwick**, pp.60-62, 64 and 69. Dromey was not a Grunwick employee but became involved in the dispute through his position as Secretary of the Brent Trades Council (Dromey and Taylor, p.53 and their outside back cover; and see Rogaly, p.60).

<sup>49</sup> Taft and Ross, 'American Labor Violence', p.314.

The legal right of the police to arrest and detain could be a powerful weapon during industrial disputes. By removing the most prominent strike leaders and the most active and enthusiastic strikers from picket lines the police aided the employers' goal of defeating the strike, as in Parma, Italy in June 1908.

Intervening to restore order, troops pushed the strikers back across the bridge; and in a hail of stones from the roof tops, infantry and cavalry proceeded through the streets to the headquarters of the chamber of labor. .... At this point, the police broke down the door, invaded the building, arrested members of the strike committee and executive committee of the organisation in the midst of a meeting, and confiscated documents and money. .... In the space of a morning, the authorities had decimated the cadres of the unions through mass arrests and occupied the headquarters of the chamber of labor.<sup>50</sup>

In some instances, perhaps many, such arrests were justifiable in terms of legitimate threats to public order and public safety, but the opportunity for the abuse of the ability to arrest was everpresent. As the Queensland shearers' strike of 1891 neared collapse a prominent 'unionist, Gilbert Casey, had surreptitiously arranged a load of rations for Barcaldine', one of the largest of the strikers' camps. Police Magistrate Ranking feared that the strike would be prolonged by such actions and by Casey's fiery speeches. Ranking had Casey 'arrested on a weak case of inciting arson and seditious speech which meant he was out of the way for two weeks.'<sup>51</sup>

A few weeks before Casey's arrest Colonial Secretary Tozer had been 'perturbed by the fact that there was [sic] still some active union leaders who

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<sup>50</sup> Sykes, 'Revolutionary Syndicalism', p.205.

had not yet been locked up. He issued another decree - this time the Vagrants Act was to be used against any union leader who could not be got at any other way. He informed [Police Magistrate] Hartley on 26 May that all union pickets were to be treated as vagrants. The Charleville [strike] camp chairman Ormsby was arrested on this charge, but the case was eventually dropped.<sup>52</sup> Two months earlier Tozer had telegraphed to Police Magistrate Ranking: "The law is strong enough to get at every prominent unionist".<sup>53</sup> Tozer's comment offers a useful insight into the potential for misuse of the criminal law during strikes. Similar events have occurred in Britain. Weinberger, for example, argues that strike leaders in Glasgow in 1919 were 'arrested on very flimsy evidence' at the behest of the British government.<sup>54</sup> Incidents such as these emphasise the need for arrests during industrial disputes to be carefully examined for any evidence of their use as acts of police repression.

Another possible way in which the police could aid the defeat of strikes was to prosecute the leaders of groups which supported strikes but were not themselves on strike. While the Toledo, Ohio automobile strike of 1934 was

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<sup>51</sup> Kerr, **Freedom of Contract**, p.28. Also see Svensen, **The Shearers' War**, pp.190-192. Casey was not tried on these charges. After the strike had collapsed he was discharged on the orders of Tozer. (Svensen, **The Shearers' War**, p.192).

<sup>52</sup> Svensen, **The Shearers' War**, p.145.

<sup>53</sup> Queensland State Archives COL / 421 - Tozer to Ranking, 24 March 1891, quoted in Svensen, **The Shearers' War**, p.186. Also see Svensen's summary of the ways in which Tozer's statement was enacted in 1891 (**The Shearers' War**, pp.253-254).

<sup>54</sup> Barbara Weinberger, 'Keeping the Peace? Policing Strikes 1906-26', **History Today**, vol. 37, December 1987, p.34. Clegg, **A History of British Trade Unions Since 1889, volume 2: 1911-1933**, p.270 describes the arrests in the following terms: 'Although their part had been to try to control the [rioting] crowd [gathered in St. George's Square], Gallacher, Kirkwood, and Shinwell were arrested'. For more details on the arrests, trial, verdicts and sentences see McLean, 'Popular Protest and Public Order: Red Clydeside, 1915-1919', pp.229-230, 231 and 232-233.



in progress two Lucas County Unemployed League 'leaders were arrested, tried on the charge of violating the injunction [against picketing - the League was picketing in support of the strikers] and released with a court warning not to do any further picketing.'<sup>55</sup> Although rare such actions need to be looked for during strikes.

The police could choose to arrest strikers for minor offences which would have been tolerated in other circumstances. During the 1933 pulpwood cutters strike in Thunder Bay, Ontario 'numerous strikers were arrested on charges of ... riding on trains without paying fares. (The latter was a widespread practice during the depression and usually ignored by authorities.)'<sup>56</sup> Such selective enforcement of the law suggests that the motivation of the police involved was not simply to prevent fare-dodging.

David Waddington describes similar types of arrests, though for different offences, in connection with the 1984-1985 British Miners' Strike. 'On the picket lines themselves, the police made uncompromising use of the discretion available to them under public-order law. Minor offences, e.g., stepping off a pavement or shouting 'scab' - activities generally tolerated in industrial disputes - were sometimes used as the pretext for an arrest.'<sup>57</sup>

Police bias against strikers could extend as far as jury trials and judiciary only hearings. The evidence presented by the police as witnesses and by police prosecutors was generally crucial to the conviction of the accused. In some cases the validity of such police evidence has been extremely questionable. In 1931 coal miners in the Bienfait-Estevan area of

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<sup>55</sup> Lens, **The Labor Wars**, p.264.

<sup>56</sup> Jamieson, **Times of Trouble: ... Canada, 1900-66**, p.227.

<sup>57</sup> Waddington, **Contemporary Issues in Public Disorder**, p.103.

Saskatchewan province, Canada went on strike. On 29 September 1931 a confrontation between police and strikers in the town of Estevan escalated into a riot. Trials of strikers for rioting, unlawful assembly, and assaulting and wounding police officers followed. Lorne Brown and Caroline Brown argue that 'the evidence at the trials added up to a complete mockery of justice.'<sup>58</sup>

One exhibit purporting to be weapons carried by the miners consisted of pieces of lead and iron pipe, axles, shafts and other automobile parts, and an old, broken army rifle. The Regina *Leader-Post* questioned the authenticity of this exhibit: "Judging by the size of some of the weapons, some husky men must have been in the crowd to wield them, or to throw them any distance." Evidence suggests that the police or their collaborators gathered up the "weapons" from an old scrap heap. Defence counsel W. H. Hefferman specifically charged Police Chief McCutcheon with having paid some boys to go out and collect the material; the chief, of course, denied the charge and claimed he had two constables gather it up from the riot scene.<sup>59</sup>

Brown and Brown agree with, and cite, the research of S. D. Hanson. 'Hanson points especially to the absurdity of including the old army rifle in the exhibit: "Is it likely that any miner would have transported an old, broken army rifle to Estevan much less have dared to throw such an object at the police? Surely any individual with even a minimal degree of common sense would realize that his chances of being shot by the nearest police officers were exceeding great should he be seen even picking up such a weapon."<sup>60</sup>' Hanson concludes that the miners threw stones, washers, pieces of metal

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<sup>58</sup> Brown and Brown, *An Unauthorized History of the RCMP*, p.74.

<sup>59</sup> Brown and Brown, *An Unauthorized History of the RCMP*, p.74.

<sup>60</sup> S. D. Hanson, 'The Estevan Strike and Riot, 1931', (unpublished MA thesis, University of Saskatchewan, Regina Campus, 1971), p.139, quoted in Brown and Brown, *An Unauthorized History of the RCMP*, p.74.

and chunks of wood at the police during the riot, but considers these a far cry from the "armaments" exhibited in court.<sup>61</sup>

Certain documents presented by Queensland police and government prosecutors in 1891 were of little more reliability than the "weapons" of the Estevan rioters. While the shearers' strike was still ongoing fourteen strike leaders were placed on trial for conspiracy. To gain convictions the prosecutors had to convince the jury that the accused were linked in a series of conspiracies to commit illegal acts or illegally prevent others (especially strikebreakers) from undertaking their legitimate occupations. A significant part of the crucial prosecution evidence of these conspiracies were written communications between the accused. For instance, a letter from Prince to Fothergill connected the two in conspiracy (at least in the prosecutor's view). The letter purporting to connect Stuart and Taylor was more problematic, the signature had been torn off, but it was still presented as clear evidence of the conspiratorial link between the two.<sup>62</sup> Police Magistrate Ranking telegraphed his concern with a number of other pieces of proposed evidence to the Queensland Colonial Secretary before the trial began: 'Re. Fothergill's telegrams there may be a difficulty in proving his signature many letters purporting to be signed by him are in the handwriting of some person whom

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<sup>61</sup> Brown and Brown, **An Unauthorized History of the RCMP**, pp.74-75. For a recent example of fabrication of evidence and false testimony by police in numerous cases in a non-strike situation (Los Angeles in the 1990s) see Cathy Booth, 'L.A.'s Bandits in Blue', **Time**, 28 February 2000, p.33, and Adam Cohen, 'Gangsta Cops', **Time**, 06 March 2000, pp.26-30. As of February 2000 the Los Angeles authorities had identified forty people who had been wrongly convicted on the basis of such evidence (Booth, 'L.A.'s Bandits in Blue', p.33; Cohen, 'Gangsta Cops', p.26).

<sup>62</sup> Svensen, **The Shearers' War**, p.175. For a full discussion of the conspiracy trial and the related charges and evidence see Svensen, **The Shearers' War**, pp.81-82, 109-110, 125-126, 157-158, 164-181, 186-187 and 267-272. Also see Geoffrey

we have been unable to identify.’<sup>63</sup> Yet, the problematic telegrams were still presented in the trial, and became pivotal in the prosecution’s case. Twelve of the fourteen accused were subsequently found guilty and sentenced to three years’ hard labour.<sup>64</sup> The use of dubious, or even fabricated, evidence by the police needs to be carefully looked for when searching through the records of trials held during periods of overt social conflict, including industrial confrontations.

Police prosecutors also sometimes had the opportunity to suppress evidence which brought into question their central evidence of the “guilt” of the unionist. In Queensland in late April 1891 a striking shearer, James Martin, was tried for sedition concerning speeches he had given at two public meetings of strikers and their sympathisers. One of the central prosecution witnesses in the jury trial was John Blair, a reporter for the Rockhampton *Morning Bulletin* who had been present at and had reported on both meetings. ‘Blair’s competence as a shorthand note-taker could have become an important issue if the prosecution had not suppressed other evidence. [Police Magistrate] Ranking advised Solicitor-General Thomas Joseph Byrnes on 18 April that a witness named Campbell had been subpoenaed [*sic*]. Campbell was a reporter for the *Western Champion*. Ranking advised Byrnes that Campbell’s evidence did not support Blair’s. He recommended that the subpoena on Campbell be withdrawn; it was, and the jury remained unaware of Campbell and his conflicting evidence. Ranking justified the suppression of this evidence on the ground that Blair was a shorthand writer while

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Bolton and Helen Gregory, ‘The 1891 Shearers Strike Leaders: Railroaded?’, *Labour History*, no. 62, May 1992, pp.117-122.

<sup>63</sup> quoted in Svensen, *The Shearers’ War*, p.168.

Campbell was not.' Martin was found guilty by the jury, with a strong recommendation for mercy, and received two years' hard labour, followed by securities of good behaviour for another year. Martin was the only one of the four persons accused of sedition during the shearers' strike to be convicted.<sup>65</sup>

If a satisfactory verdict was not given against strikers by a judge or a jury the police could choose to re-arrest the accused on new charges. Svensen's research has revealed such preparations were made concerning the strike leaders on trial for conspiracy in Queensland in 1891. 'The jury re-entered the court room at 10 a.m. .... [Police Magistrate] Ranking waited patiently in the audience, half hoping for an acquittal. He had warrants for the arrest of all fourteen prisoners in his pocket, kindly arranged by [Colonial Secretary] Tozer. It would be worth an acquittal to see the looks on their faces when he clapped the irons on them again.'<sup>66</sup> The conviction of twelve of the fourteen men alleviated the need to use the warrants, and neither of the acquitted were re-arrested.<sup>67</sup> Police bias against strikers could permeate all stages of the criminal justice process: from arrest, to prosecution, to trial, and could even continue after the accused had been acquitted.

Interactions between police and strikers were not always hostile. The British General Strike of 1926 saw a football match played between police and strikers at Plymouth. The strikers won 2-1.<sup>68</sup> A public billiard match,

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<sup>64</sup> Svensen, *The Shearers' War*, pp.171 and 180-181.

<sup>65</sup> See Svensen, *The Shearers' War*, pp.128-129, 157 and 158-163; the quote is from p.163.

<sup>66</sup> Svensen, *The Shearers' War*, p.180.

<sup>67</sup> Svensen, *The Shearers' War*, pp.180-181.

<sup>68</sup> Clive Emsley, 'Police Forces and Public Order in England and France during the Interwar Years', in Clive Emsley and Barbara Weinberger (eds), *Policing Western Europe: Politics, Professionalism, and Public Order, 1850-1940*, (New York, Westport, Connecticut, and London: Greenwood Press, 1991), p.170; Keith

concerts, a tug-of-war, and athletic matches, each involving both police and strikers, were also held.<sup>69</sup> At one colliery during the 1972 British Miners' Strike the village policeman gave the strikers lifts in his police car to and from the picket line.<sup>70</sup> The police have deputised strikers or sworn them in as special constables, as in 1874 in the Ohio Hocking Valley town of New Straitsville, and in 1913 in Akron, Ohio.<sup>71</sup> In 1926 the strike committee provided all of the special constables recruited at Lincoln during the British General Strike. The local Chief Constable also refused the assistance of either the military or mounted police.<sup>72</sup> These decisions would have severe consequences for the Lincoln police officials involved. 'The alleged lack of strong action by the police was to lead, after the strike, to an inquiry by the

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Laybourn, **The General Strike Day By Day**, (Phoenix Mill, Stroud, Gloucestershire: Alan Sutton Publishing Ltd, 1996), p.93. Henry Pelling, **A History of British Trade Unionism**, 5th edition, (Houndmills, Basingstoke, Hampshire, and London: Macmillan Press, 1992), p.177, provides a useful assessment of the broader implications of the football match being played: 'Conditions varied locally: at Plymouth things were so quiet a football match could be arranged between the strikers and police; at Newcastle there was rioting, baton charges by the police, and arrests of strike leaders.'

<sup>69</sup> Farman, **The General Strike May 1926**, p.184.

<sup>70</sup> Geary, **Policing Industrial Disputes 1883 to 1985**, p.94.

<sup>71</sup> Herbert G. Gutman, 'The Worker's Search for Power: Labor in the Gilded Age', in H. Wayne Morgan (ed), **The Gilded Age: A Reappraisal**, (Syracuse: Syracuse University Press, 1963), p.58 (concerning New Straitsville); Rosswurm, 'A Strike in Rubber City', p.56 (concerning Akron). The Hocking Valley dispute involved coal miners. The Akron strike was by rubber workers.

<sup>72</sup> Farman, **The General Strike May 1926**, p.184; Margaret Morris, **The General Strike**, (Harmondsworth, Middlesex: Penguin Books, 1976), p.55; and Morgan, **Conflict and Order**, pp.122-123. See Burns, **The General Strike May 1926**, pp.72, 73 and 74 for further examples of friendly relations between police and strikers in 1926. Also see David Englander, 'Police and Public Order in Britain 1914-1918', in Clive Emsley and Barbara Weinberger (eds), **Policing Western Europe: Politics, Professionalism, and Public Order, 1850-1940**, (New York, Westport, Connecticut, and London: Greenwood Press, 1991), p.92, for the permanent under secretary of the British Home Office's statement in September 1911 that 'it may sometimes be perfectly legitimate to enroll strikers as Special Constables', and his justification for this belief.

inspector of constabulary. The outcome was to be the resignation of the chief constable of Lincoln, as well as the chairman of the local watch committee.<sup>73</sup> In West Yorkshire, and at times in Derbyshire, during the 1984-1985 British Miners' Strike the police stopped vehicles crossing picket lines 'to give pickets the opportunity to speak to the occupants. This extended on occasion to pickets being allowed to board buses to address the passengers.'<sup>74</sup> Herbert Gutman has even found that police officials in the coal mining town of Braidwood, Illinois 'enforced the law more rigorously' against outside strikebreakers than against the resident striking miners in 1874.<sup>75</sup> However, such examples of friendly, or even pro-strike, actions by the police are relatively rare in comparison to instances of police violence, repression and bias against unionists during industrial disputes.

Further evidence of the potential for police persecution of the lower classes during periods of class tension can be found in non-strike related contexts: for example, McQuilton's work on the Kelly Outbreak of 1878-1880 in Australia. During a time of conflict over land ownership and use between "squatters" (large landholders) and poor lower class "settlers", individual members of the police frequently and intentionally arrested and prosecuted the "settler" members of the Kelly Clan (and associated kinship group) on false or paltry charges based on rumour and circumstantial evidence. These

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<sup>73</sup> Morgan, **Conflict and Order**, p.123.

<sup>74</sup> Wallington, 'Policing the Miners' Strike', p.153. Wallington, p.153, emphasises that 'these practices were generally regarded by both police and pickets as contributory factors in lowering tension and reducing the risk of disorder, especially when persuasion was successful.' Wallington's analysis, p.153, of why 'this constructive arrangement rarely occurred in other areas' during the strike is also extremely useful.

<sup>75</sup> Gutman, 'The Worker's Search for Power', p.51.

actions continued over a seventeen year period, and constituted police persecution.<sup>76</sup>

A second, less malicious, use of the criminal law and prosecutions was the relatively benevolent type of police “crackdown” (or control response) on offending during periods of social tension, such as major strikes, discussed above. Examples of such “benevolent” crackdowns are extremely difficult to find, since their results are generally so similar to an intentionally repressive crackdown. The possibility of such “benevolence” does need to be looked for while undertaking research and considered when analysing results. Some of the cases and examples described in this chapter could be interpreted as examples of a relatively “benevolent” police crackdown, but the repressive intention motivating almost all the incidents presented is clear from the evidence.

To determine if the police used the criminal law to persecute or to enact a “crackdown” in Wellington during the 1913 strike a series of tests will be conducted in Chapter Six on the criminal prosecutions of the period. The monthly rate of prosecutions during the strike will be compared to the monthly rate before the strike, as will the particular types and proportion of charges laid. The international research suggests that if an increase in the number of prosecutions was found this was caused by police persecution, a police “crackdown”, or an increase in offending. To help clarify the cause of any increase in prosecutions the number of cases withdrawn before they reached trial will be examined as will the types of charges withdrawn. The work of McCabe and Wallington, Jamieson, and Svensen indicate that significant

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<sup>76</sup> McQuilton, **Kelly Outbreak**, pp.2-3, 69-73, 82, 92, 170-171 and 196-198.



increases in withdrawal rates is strong evidence of police persecution of strikers. A third test will be an analysis of the pleas of the accused. If an increase in the proportion of not guilty pleas is found this supports the hypothesis of police persecution rather than a simple increase in offending or police vigilance.

#### **b) The Judicial Use of the Criminal Law**

Instances of individual members of the elite using their judicial powers for the benefit of themselves and fellow members of governing groups at the expense of the subordinate social groups, are common throughout the social history of crime and the criminal law. One gap in this historiography involves the judiciary during industrial disputes. Apart from a few instances, which will be discussed below, the judiciary's application of the criminal law during strikes has not been analysed by international or New Zealand researchers. The analysis in the current thesis will help to alleviate this situation, though, by necessity, the theory and tests utilised will be drawn from only a small number of industrial dispute situations supplemented with evidence from a range of non-strike contexts.

The most useful research on the use of the criminal law by the judiciary during industrial disputes can be found within Stuart Svensen's *The Shearers' War*. As part of a general history of the 1891 Queensland shearers' strike Svensen has conducted detailed research into the prosecutions and trials related to the strike. The evidence he presents raises a number of questions about the impartiality of judges and magistrates in times of major industrial conflict.

The judiciary could collude with the government in "stretching" the applicability of the criminal law in ways which were harmful to strikers, as occurred in Queensland in 1891.

[Colonial Secretary] Tozer dug up another law to victimise unionists. Any unionists who were in possession of meat for which they could not produce a butcher's receipt were to be charged with "having stolen meat in their possession for which they could not satisfactorily account" under section 5 of the Cattle Stealing Prevention Act. All the charges laid against unionists under this Act related to mutton, not beef. Tozer selected the cattle stealing Act because under it a magistrate had the power summarily to sentence offenders to six months' hard labour. If unionists were charged with sheep stealing, they would have to be tried before a judge and jury, a risky business.

Six unionists [were] arrested for stealing sheep at Darr River Downs on 14 April .... [Police Magistrate] Ranking and [Police Inspector] Ahern attempted to persuade [the local police magistrate] Francis to proceed against the men under the cattle stealing Act, but Francis was not convinced that sheep and cattle were the same animal. He was enlightened by Tozer, who informed him that it was "not wise at present to commit for the felony the object being deterrent, a severe penalty under clauses 5 & 9 of Cattle Stealing Prevention Act will more readily accomplish the objects". Five of the men were fined £50 each plus costs, or six months in default. They took the six months.<sup>77</sup>

Police Magistrate Francis may have been influenced in his decision to eventually acquiesce to the Colonial Secretary's strategy by an incident the previous month. Tozer had transferred the Barcaldine police magistrate, John Macarthur, to the Queensland judicial equivalent of Siberia for not taking a strong enough stance against the union "threat".<sup>78</sup> Whether or not collusion

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<sup>77</sup> Svensen, *The Shearers' War*, pp.137-138.

<sup>78</sup> See Svensen, *The Shearers' War*, pp.92, 114-115 and 145. One of the major differences of opinion between Macarthur and Tozer concerned the need to swear in special constables in Barcaldine. Macarthur repeatedly reported to Tozer that 'the

by the judiciary in the "stretching" of the law was entirely voluntary, the magistrates who allowed prosecutions and convicted strikers for possessing mutton under the cattle stealing Act were obviously not acting in a completely impartial manner.

The judiciary could sometimes remand strike leaders in gaol or police custody, rather than release the accused, when the prosecution presented insufficient evidence to allow them to be committed for a jury trial. Five of the fourteen Queensland unionists who would stand trial for conspiracy in the Rockhampton Supreme Court made their first appearance on these charges in the Clermont police court, and experienced this form of questionable judicial decision making.

[Senior Sergeant] Dillon was cross-examined by the defendants. He admitted that he had not seen any of them partake in the [Clermont] "riot". He had never, he admitted, seen Stuart take part in any disturbance. Some letters were read to the court. There was one from Glassey to Taylor in which he advised that only constitutional measures should be used. There was one from Stuart to Taylor which advised of certain blackleg movements, and asked Taylor to "interview if possible" [i.e. talk to the strikebreakers]. The other letters were equally innocuous. [Police Magistrate] Morey was in a fix. There was not sufficient evidence to commit the men, but he knew he would

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unionists were orderly and that the nine policemen in town were sufficient to control the situation.' The eligible residents of the town were also reluctant to be sworn in as special constables, and Macarthur indicated to Tozer that 'if he needed any additional manpower, he would swear in some of the unionists as specials.' (Svensen, **The Shearers' War**, p.114). Strikebreakers were sworn in as special constables during the dispute. (Svensen, **The Shearers' War**, p.92). In May 1891 Tozer would send a telegram to Police Inspector Urquhart stating 'that he had already removed two police magistrates who had shown "maudlin sympathies with the strike, a kind of sentimental socialism".' (Svensen, **The Shearers' War**, p.145).

not be too popular with Tozer if he let them go. He decided to send them to Barcaldine and let [Police Magistrate] Morris worry about them.<sup>79</sup>

Two weeks later these strike leaders were committed by the Barcaldine police magistrate to the Supreme Court for a jury trial, and four of the five were subsequently convicted and sentenced to three years hard labour.<sup>80</sup>

The refusal to allow bail for defendants awaiting a trial was another way in which the judiciary could aid the defeat of strikes. The longer unionists, especially the most important strike leaders, were kept in police cells or gaols the less influence they could have on maintaining and strengthening the strikers' resolve to continue the industrial action. Not all instances of the refusal of bail were necessarily motivated by animosity to unionists. Genuine judicial concern that the individual would commit more crimes or create more disorder if released was likely to be the primary consideration in many such decisions. However, cases where the refusal of bail was clearly questionable have been found by historians. In Queensland in 1891 Police Magistrate Ranking committed seven unionists accused of rioting at Clermont to trial. 'Bail was refused in accordance with a directive from Tozer that bail should not be granted to any unionist.'<sup>81</sup> The unions appealed the bail decision, calling upon the Crown to show cause why bail

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<sup>79</sup> Svensen, **The Shearers' War**, pp.165-166, the quote is from p.166. Concerning Tozer's attitude to magistrates who appeared to be sympathetic to the strikers see p.120 in the current chapter and footnote 78.

<sup>80</sup> Svensen, **The Shearers' War**, pp.167 and 180-181. Svensen does not describe the prosecution evidence presented at the Barcaldine committal hearing, nor does he state if any new evidence was presented.

<sup>81</sup> Svensen, **The Shearers' War**, pp.101-103; the quote is from pp.102-103; and see Kerr, **Freedom of Contract**, p.23. For accounts of the Clermont "riot" see Svensen, **The Shearers' War**, pp.98-100, and Kerr, **Freedom of Contract**, pp.22-23. Also see Bolton and Gregory, 'The 1891 Shearers Strike Leaders: Railroaded?', p.118.

should not be granted to the prisoners. The matter was heard by Queensland Chief Justice Charles Lilley.

The chief justice said there was no evidence that the men were likely to fail to appear if they were granted bail. The police, he said, seemed to have lost their heads over the condition of things in the central districts [of Queensland]. There was no point, he continued, in refusing what in the normal course of the law was almost a man's right. He granted bail to each prisoner to the sum of £80, with two sureties of £40 each. The men were not released. Tozer had already decided to have them rearrested on other charges in the event of bail being granted. News of this had leaked to the press, and the plan was published in the papers the same day that Griffith [the Queensland premier and attorney-general] telegraphed his approval. The men decided not to waste their money, and remained in custody.<sup>82</sup>

At their jury trial nearly a month after the original bail ruling had been overturned all seven men were found not guilty of rioting.<sup>83</sup>

During the same Queensland strike none of the fourteen strike leaders committed to trial for conspiracy were allowed bail.<sup>84</sup> This lack of bail appears even more suspicious if the report is true that upon hearing of Bill Hamilton's arrest for conspiracy the local military commander, Major Jackson, went to the Clermont court house and offered to put up a cash bond of £2,000 for Hamilton's release on bail. The reported rationale for Jackson's offer was that 'he believed Hamilton was a steadying influence on the

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<sup>82</sup> Svensen, *The Shearers' War*, p.103.

<sup>83</sup> Svensen, *The Shearers' War*, pp.103-104; and Kerr, *Freedom of Contract*, p.23. Only three of the seven unionists were actually freed after the jury's verdict. The others remained in custody to face additional strike-related charges. Three of these four men were subsequently convicted and imprisoned. The fourth, William McCarthy, was eventually discharged after spending nearly three months in custody. (Svensen, *The Shearers' War*, p.104).

<sup>84</sup> Svensen, *The Shearers' War*, p.164.

unionists.<sup>85</sup> Could the magistrates have been more interested in weakening the leadership of the strike, than allowing a 'steadying influence' to return to the strikers' camps?

Bill Kewley, another Queensland strike and union leader who had strong support from "respectable" citizens experienced similar difficulties in 1891 in obtaining bail. Kewley was arrested and charged with perjury concerning evidence he gave in the court trial of a striker convicted of 'molesting hired servants'. He was also accused of being an accessory in the burning of the Lorne woolshed. On each charge the evidence was rather insubstantial. 'He was held in the lock-up for several months before the charges were eventually dropped, even though almost every businessman in Blackall offered to put up securities for his release on bail.'<sup>86</sup> These three examples illustrate the value in carefully examining the bail aspects of industrial dispute criminal prosecutions, and raise questions as to the actual motivation of some of the judiciary in refusing certain bail applications. Preventing further offending may have been one consideration, but the relative influence of any hostility to the strike in progress also needs to be considered, and looked for, by researchers.

The judiciary could display bias during industrial disputes in their verdicts or sentences concerning prosecutions against employers, management or their strike allies. Since the number of such cases which reached the courtroom is very small, both absolutely and in comparison to prosecutions against unionists, it would not be surprising if instances of pro-employer judicial bias were difficult to find. A few examples which have been

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<sup>85</sup> Svensen, *The Shearers' War*, pp.164-165.

uncovered by historians indicate the possibilities for favouritism. At Silksworth, England in 1891 violence ensued when attempts were made to evict strikers from company housing. Prosecutions followed, as did claims 'that partiality on the part of local magistrates led to the dismissal of assault charges against the two superintendents' concerning the disturbance.<sup>87</sup> In Queensland in 1891 John Burn, manager of the Retro sheep station and justice of the peace, pleaded guilty to a charge of assaulting a unionist at an otherwise peaceful demonstration by strikers against the arrival of troops in the strike area. Police Magistrate Morey fined Burn £5 stating that this 'was the heaviest penalty under the Act'.<sup>88</sup> Five pounds was a significant fine and one which most unionists would have had difficulty paying by themselves. The sentencing would appear to be an example of exemplary judicial fairness. The potential existence of a judicial double-standard is, however, suggested by Morey's actions a few months later. Once again strikers and employers were in Morey's court in connection with allegations of assault. This time the accused were two unionists and the victims were pastoralists (the owners of sheep stations). Each of the accused were convicted and sentenced to one month's hard labour. Svensen commented: 'Morey had evidently found a different Act from that which he used to fine John Burn the maximum penalty of £5.'<sup>89</sup> A variety of explanations are possible of the events in Silksworth and Queensland, but given the available evidence the "conspiracy" or bias interpretation is at least as plausible as a conclusion of no bias. At the least

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<sup>86</sup> Svensen, **The Shearers' War**, pp.143-145; the quote is from pp.144-145.

<sup>87</sup> Emsley, **The English Police**, 2nd edition, p.115.

<sup>88</sup> Svensen, **The Shearers' War**, pp.94 and 102; the quote is from p.102. It should also be noted that the assault prosecution was not brought by the police, but by the victim, Dan Murphy. (Svensen, **The Shearers' War**, p.102).

these examples indicate potential ways in which judicial favouritism could influence court cases.

Questionable court procedures allowed by judges and magistrates during hearings or trials could also reduce the chances that the unionist defendant would be found not guilty. Queensland striker Timothy Reardon was arrested and tried in 1891 on an intimidation related charge, but there was a major omission in his first summary hearing and conviction.

[Police Magistrate] Morey gave Reardon three months' hard labour. The prisoner pointed out that he had not been given the opportunity of saying anything in his own defence, and he denied making the statement attributed to him. Morey was obliged to cancel the sentence. Reardon was again locked up on remand and was eventually sentenced to a month.<sup>90</sup>

Jury selection was another important court procedure which judges were supposed to oversee to ensure a fair trial. Problems were again possible, as in the trial for seditious conspiracy of seven strike leaders following the defeat of the 1919 Winnipeg General Strike. 'The jurymen all came from rural Manitoba, where considerable anti-Labour hysteria had been whipped up, and there was some evidence of undue Crown influence in choosing the jury.' Six of the seven accused were convicted and sentenced to terms ranging from six months to one year.<sup>91</sup>

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<sup>89</sup> Svensen, **The Shearers' War**, p.104; also see pp.98-103.

<sup>90</sup> Svensen, **The Shearers' War**, p.104.

<sup>91</sup> Brown and Brown, **An Unauthorized History of the RCMP**, p.44. For a detailed and useful discussion of the arrests, the charges and the two jury trials see D. G. Masters, **The Winnipeg General Strike**, (Toronto: University of Toronto Press, 1950), pp.67, 102-107, 111, 113-124 and 127. In all, eight of the strike's leaders were tried for seditious conspiracy, seven of whom were convicted. R. B. Russell was tried and convicted to two years' imprisonment at a separate and earlier jury trial to the other seven accused. The appeal against Russell's conviction had already been dismissed by the Manitoba Court of Appeal before the second jury trial commenced.



Judges could also influence a jury through their summing up (also known as charges to the jury) before the jurors retired to deliberate their verdict. Brown and Brown, citing Hanson's thesis, state that in two of the trials resulting from the Estevan strike "riot" of 1931 'the presiding judges showed obvious bias in their charges to the jurors.'<sup>92</sup> A similar statement could be made from evidence Svensen presents on the conspiracy trial during the Queensland "Shearers War", though Svensen prefers to allow the content of Judge Harding's summary to speak for itself.<sup>93</sup> A later jury trial of strikers over which Harding presided earns the distinction of involving, in Svensen's view, 'one of the most bitterly hostile summings up heard in a British court'.<sup>94</sup>

Once a striker or sympathiser with the strike had been found guilty biased judges and magistrates had the power to impose excessively harsh sentences. The textile strike in Lawrence, Massachusetts in 1912 provides a clear example of such prejudice. 'In an outbreak of judicial fury one local judge sentenced 34 strikers to a jail sentence of one year or more each, after brief five- or ten-minute trials. Their sentences were later changed to small fines by the State Superior Court, but in the meantime the union had to raise

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(See Masters, **The Winnipeg General Strike**, pp.116 and 120). Concerning the controversy over the selection and composition of the jury for the second trial see Masters, **The Winnipeg General Strike**, pp.120-121.

<sup>92</sup> Brown and Brown, **An Unauthorized History of the RCMP**, p.75, citing Hanson, 'The Estevan Strike and Riot, 1931', p.160.

<sup>93</sup> See Svensen, **The Shearers' War**, pp.176-180. Also see pp.163 and 193. For a contrasting interpretation of Judge Harding's role in the conviction of twelve of those accused of conspiracy see Bolton and Gregory, 'The 1891 Shearers Strike Leaders: Railroaded?', pp.117-122.

<sup>94</sup> Svensen, **The Shearers' War**, p.193. Svensen does not go into any more detail as to the content of the summing up. Another example of a judicial summing up hostile to the accused striker can be found associated with the Winnipeg General Strike of 1919. Fred J. Dixon was charged with seditious libel in relation to a number of his speeches and two editorials during the strike. The jury received 'a very hostile

\$27,200 bail to win their release pending appeal.<sup>95</sup> During the weekend of 8 and 9 May 1926 disturbances associated with the British General Strike resulted in hundreds of arrests. The severity of sentences arising from these incidents, especially for minor offences such as 'insulting men on their way to work', suggests judicial harshness, if not actual bias, against those associated with the strike.

Hundreds of men and women received severe sentences when they came before the magistrates on Monday or Tuesday of the following week. Two hundred people were arrested in Glasgow, and about half of them received sentences of three months' imprisonment. In Hull, twenty-five of those arrested received sentences varying from three to nine months. In London the sentences varied from one to three months, for such offences as interfering with the traffic and insulting men on their way to work. Elsewhere, the arrests were fewer in number, but sentences were equally severe.<sup>96</sup>

Specific cases provide further evidence of the harshness of some sentences associated with the 1926 General Strike. Ten lads at Bolton received up to three months' imprisonment for drawing the draw-pin of a coal cart.<sup>97</sup> At Farnworth a man was sent to gaol for a month for tearing down a Government

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summing up from the bench', but still acquitted Dixon. (Masters, **The Winnipeg General Strike**, p.125).

<sup>95</sup> Lens, **The Labor Wars**, p.176. Lens notes that during the entire dispute only 54 strikers were given sentences of imprisonment, while 220 were fined (p.176).

<sup>96</sup> Julian Symons, **The General Strike: A Historical Portrait**, (London: Cresset Press, 1957), pp.194-195; the quote is from p.195. For accounts of the weekend disturbances see Farman, **The General Strike**, pp.192-193; Laybourn, **The General Strike**, pp.92 and 98; and Renshaw, **The General Strike**, pp.18-19. For additional, though brief, discussions of the sentences given in Glasgow see Bhaumik, 'The Strike in the Regions: Glasgow', p.407; and Paul Carter, 'The West of Scotland', in Jeffrey Skelley (ed), **The General Strike 1926**, (London: Lawrence and Wishart, 1976), pp.116 and 133.

<sup>97</sup> Burns, **The General Strike May 1926**, p.73.

poster.<sup>98</sup> A Communist found chalking “seditious” slogans on a pavement at Castleford was gaoled for two months with hard labour and fined £200.<sup>99</sup> At Penrith the local secretary of the National Union of General Workers went to prison for three months with hard labour for issuing a leaflet urging workers not to become special constables.<sup>100</sup>

An excessive sentence was also imposed on at least one striking miner in Britain in 1984-1985. The man ‘painted “SCAB” on the wall of a working miner’s house [which was owned by the Coal Board] and blacked out the windows. The offence took place at night, a fact the magistrate noted as particularly heinous. Explicitly for purposes of deterrence, a sentence of two months’ imprisonment was given. The sentence itself was heavy enough for a man whose only contact with the law had been as a juvenile when he was fined £20 for assault’.<sup>101</sup> Waddington notes, in connection with the same strike, that the ‘hard-line approach [of the police] to picket-line misconduct was sanctioned by severe court sentencing of offenders’.<sup>102</sup> Unfortunately, Waddington does not present any sentencing examples or provide references to trace these sentences.

Further instances of judicial hostility to strikers are visible through sentences in which the judge displayed a lack of leniency compared to non-strike periods or compared to other judges during the same industrial dispute. In Queensland in 1891 two strikers were sentenced to seven years’

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<sup>98</sup> Burns, **The General Strike May 1926**, p.73; and Farman, **The General Strike May 1926**, p.199. Farman describes the convicted as a striker; Burns describes the convicted as a man.

<sup>99</sup> Farman, **The General Strike May 1926**, p.199.

<sup>100</sup> Farman, **The General Strike May 1926**, p.199.

<sup>101</sup> McCabe and Wallington, **The Police, Public Order, and Civil Liberties**, p.101.

imprisonment for setting fire to grass. Svensen concludes that the grass firing was probably no more than a prank, and very little, if any, damage was caused. 'It would seem from the evidence that the unionists knew that they were being watched by the police, and for a joke the two men sprinkled some kerosine on the wet grass and ignited it.'<sup>103</sup> It is hard to imagine such severe sentences being given for a relatively minor incident in Queensland in the 1890s if it had not taken place during the "shearers' war".

Also in Queensland in 1891 a confrontation at Peak Downs between strikers, strikebreakers, police and troops resulted in two related trials. Charges of 'molesting hired servants' (that is, intimidation of strikebreakers) were heard by Police Magistrate Morey at Clermont, and nine of the thirteen accused strikers were convicted. Morey was lenient in his sentencing of four of those convicted because of their youth. Three of the four youths were 'found guilty but discharged because of their age', and the fourth was sentenced to a month, reduced to an hour. Two of the older unionists were imprisoned for three months each, two more for one month each, and the fifth was found guilty but was discharged.<sup>104</sup> Nine unionists, including the four youths, were committed to Rockhampton for trial on charges of unlawful assembly and rioting also relating to the incident at Peak Downs. Two of the

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<sup>102</sup> Waddington, **Contemporary Issues in Public Disorder**, p.104.

<sup>103</sup> Svensen, **The Shearers' War**, p.141. Also see pp.132-133 for the lighter sentences handed down earlier in the strike to fourteen unionists for more serious instances of firing grass. 'Three of the men were sentenced to three months and another eleven were fined or given shorter prison sentences.' (p.133). Svensen does not discuss the possibility that these were cases of relative judicial leniency towards strikers. His explanation is that 'fortunately for the men, the magistrate at Mitchell had evidently not read Tozer's "Notes for Peace Officers", which stated that setting fire to grass was a felony worth a minimum of three years' hard labour and a possible whipping.' (p.133).

youths, David Bowes and John Heathcote, were convicted by the jury, along with four of the older unionists. Judge Harding 'did not show the same consideration for the tender age of some of the prisoners as had Morey. Heathcote was given three years' hard labour, Bowes one and a half.' The older unionists each received sentences of between two and three years.<sup>105</sup>

Similar inconsistencies in sentencing are apparent in association with the 1984-1985 British Miners' Strike. Another miner, in the same area as the man who was imprisoned for two months for painting 'SCAB' and blackening out windows, was charged with the grievous bodily harm of a lorry driver at an open-cast mine. He received a suspended sentence of nine months and a fine of £200. McCabe and Wallington comment: 'From these two cases it would seem that damage to the Coal Board's property was thought to be more worthy of immediate imprisonment than a serious physical assault upon a lorry driver who was helping to execute Coal Board policy.'<sup>106</sup> Such intriguing judicial sentencing decisions offer insights into the application of the "impartial" criminal law during strikes. They also suggest motivations for these actions which may not otherwise have been discernible or considered.

Examples of judicial leniency, or even sympathy, towards strikers can also be found in the histories of industrial disputes. A strike of ribbon-weavers occurred in the textile mills of Paterson, New Jersey in 1877. Herbert Gutman argues that 'the local courts displayed their independence of

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<sup>104</sup> Svensen, *The Shearers' War*, p.110. For details of the "riot" at Peak Downs and the preceding events see Svensen, *The Shearers' War*, pp.106-107.

<sup>105</sup> Svensen, *The Shearers' War*, pp.110-111; the quote is from p.111. Svensen, pp.110-111, also notes the interesting definitions of rioting and unlawful assembly which Judge Harding presented in his summing up to the jury.

<sup>106</sup> McCabe and Wallington, *The Police, Public Order, and Civil Liberties*, pp.101-102.

the manufacturers and on several occasions weavers charged with disorderly conduct went free or suffered, at best, nominal fines. After manufacturer William Strange successfully prosecuted two weavers for violating written contracts, pressure from city officials, including the mayor, convinced a local judge to postpone indefinitely forty additional trials.<sup>107</sup> During another textile strike in Paterson in 1878-1879 Joseph McDonnell, the editor of the Paterson *Labor Standard*, a socialist newspaper supportive of the strike, was convicted of libel. McDonnell was fined \$500, substantially less than the maximum \$2,000 fine and two years' imprisonment. 'A second judge, in the case, himself originally a Lancashire worker and then the owner of a small bobbin pin factory, [had] convinced the presiding judge to go easy on McDonnell.'<sup>108</sup> Gutman's work demonstrates that judicial leniency concerning strikers was possible and needs to be looked for. However, the relatively small number of studies so far conducted on criminal prosecutions, the judiciary and industrial disputes, indicate that judicial hostility against strikers was more frequent than judicial sympathy.

Rigorous enforcement of the criminal law against strikebreakers and other allies of the employers is another indication of a judiciary which is not prejudiced against strikers. In Braidwood, Illinois in 1874 'two new workers [strikebreakers] who got into a fight one Sunday were arrested for violating the Sabbath law and fined \$50 and court costs. Unable to pay the fine, they were put to work on the town streets. One of them, jailed for hitting an elderly

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<sup>107</sup> Herbert G. Gutman, 'Class, Status, and Community Power in Nineteenth-Century American Industrial Cities - Paterson, New Jersey: A Case Study', in Frederic Cople Jaher (ed), **The Age of Industrialism in America: Essays in Social Structure and Cultural Values**, (New York: Free Press, 1968), p.270.

woman with a club, was fined \$100 and court costs.<sup>109</sup> These were extremely large fines for those on a worker's income. The rate for digging coal in Braidwood was \$1.25 a ton, before the wage cut to \$1.10 a ton which initiated the 1874 lockout.<sup>110</sup> During the iron manufacturing workers' lockout of 1874 a justice of the peace in Covington, Kentucky displayed in his sentences both leniency to strikers and firmness towards those the employers brought into the town to replace the "troublesome" local workers.

Three strikers were arrested for molesting new hands, but he [the justice of the peace] freed one of them and fined the other men a dollar each and court costs. A new worker, however, was fined twenty dollars for disorderly conduct and for carrying a deadly weapon. He also had to post a \$500 bond as a guarantee that he would keep the peace.<sup>111</sup>

These examples can also be interpreted, as Gutman has, as acts of judicial hostility against the employers involved with the dispute and their allies. The lack of any favouritism towards those aiding the employers is clear. Once again, though, such events are rare in the international history of industrial disputes.

Research on the judiciary and their use of the criminal law in non-strike situations confirms the potential for the repressive actions suggested by the work on the judiciary and strikes. Douglas Hay characterised English law in the eighteenth century as a means through which the English elite reinforced their property ownership rights to the detriment of, and to control, the lower

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<sup>108</sup> Gutman, 'Class, Status, and Community Power', pp.273 and 274-275; the quote is from p.275.

<sup>109</sup> Gutman, 'The Worker's Search for Power', p.51.

<sup>110</sup> Gutman, 'The Worker's Search for Power', p.49.

<sup>111</sup> Gutman, 'The Worker's Search for Power', p.55.

classes.<sup>112</sup> Ted Robert Gurr concluded that 'the courts gave harsher sentences to convicts and ticket-of-leave holders in early nineteenth-century New South Wales, and to Indians in Calcutta during colonial rule, than to other defendants.'<sup>113</sup> Further evidence of partiality can be found in Victoria, Australia in the nineteenth century. The judicially empowered "squatters" (large landholders) sometimes used their judicial powers to persecute "undesirable" families and settlers in their regions (such as the Kelly Clan) with the intention of forcing the lower class "undesirables" to move elsewhere.<sup>114</sup>

Everyday employer-employee relationships could also be influenced by a biased judiciary, as in Grimsby, England from 1880 to 1902. Grimsby was one of the main centres of British deep-sea fishing, along with Hull and Yarmouth. Between 1854 and 1880 seamen and apprentices were liable to summary imprisonment not exceeding twelve weeks for desertion, and ten weeks for being absent without leave or refusing to join ship. The arduous nature of deep-sea fishing in the North Sea resulted in hundreds of convictions for such offences each year.<sup>115</sup> Employers faced a potentially

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<sup>112</sup> Hay, 'Criminal Law', pp.25-26, 36, 44 and 50; Hay, 'Poaching', pp.191-192, 212, 219, 240-242, 244 and 248-251.

<sup>113</sup> Gurr, 'The Comparative Analysis of Public Order', p.728.

<sup>114</sup> McQuilton, **Kelly Outbreak**, pp.52-53, 61-62, 70-73, 82 and 146; and O'Malley, 'Bushranging', p.276. Also see McQuilton pp.35 and 52 regarding the beneficial treatment of other members of the squatter class by the squatter judiciary concerning cases of the misappropriation of land, once again with the lower class settlers as the victims of judicial bias.

<sup>115</sup> John Rule, 'The Smacksman of the North Sea: Labour Recruitment and Exploitation in British Deep-Sea Fishing, 1850-90', **International Review of Social History**, vol. 21, part 3, 1976, pp.401-402. For further discussion of desertion and absconding by apprentices at Grimsby and their imprisonment see Pamela Horn, 'Pauper Apprenticeship and the Grimsby Fishing Industry, 1870 to 1914', **Labour History Review**, vol. 61, no. 2, Summer 1996, pp.176-178, 179, 184-186, 187, 190 and 191.



costly problem with the passage of the 1880 Payment of Wages Act which 'removed the right of summary imprisonment. Hands who failed to join ship could still be proceeded against in the civil courts after issue of a warrant, but since apprentices had no wages or property, civil remedy against them was futile. Further the new act enabled lads to free themselves from the charge of desertion by giving forty-eight-hours notice of their intention not to sail'.<sup>116</sup> To maintain the apprenticeship system and the resulting supply of cheap and indentured labour in the 1880s and 1890s the 'Grimsby local justices were interpreting the law in a different way, one which clearly favoured the owners.'

At the other ports [including Hull and Yarmouth] the owners decided that without the sanction of imprisonment apprenticeship was a redundant institution. At Grimsby it was decided that if an apprentice gave forty-eight-hours notice of his intention not to join ship, this could be regarded as a breach of his indentures under an unrepealed section of the 1854 act. The lad could, they held, be proceeded against for disobedience of a lawful order. At the other ports this was taken to mean disobedience at sea. At Grimsby the courts stretched it to cover disobedience of the order to join ship. Accordingly, when imprisonment of apprentices virtually ceased elsewhere, Grimsby continued to use imprisonment to preserve its "peculiar institution". At Hull the total number of imprisonments for desertion from 1883 to 1893 was 172; at Grimsby it was 1,304. After 1893 there were no further imprisonments at Hull; at Grimsby there were a further 385 before they finally ended in 1902.<sup>117</sup>

Judicial bias could be utilised during periods of perceived social change and heightened class tension in a ruling class attempt to maintain the current power structure. Powerful examples of judicial bias in such contexts can be found in the history of Barbados between the 1870s and the 1900s.

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<sup>116</sup> Rule, 'The Smacksman of the North Sea', p.403.

<sup>117</sup> Rule, 'The Smacksman of the North Sea', p.404.

In 1877 a field labourer received 12 months' imprisonment with hard labour for 'conspiring' to raise the wages of a cane-cutting contract. In 1909 an estate manager arbitrarily stopped wages for alleged worker indiscretions. When his employees disputed the decision with his bookkeeper, they were convicted on assault charges. Both examples are drawn from an era when there was fear of "alarming change" among the ruling class of Barbados society.<sup>118</sup>

Harring argued that the same motivation was the cause of the repressive use of the criminal law against unemployed protesters in Buffalo during the heightened class tensions of the 1890s depression. In August 1894 "Count" Rybakowski's "industrial army" of 175 unemployed men arrived on the outskirts of Buffalo. The "army" was bound for Washington, D.C. to 'demand federally financed public works programs and work for everyone'.<sup>119</sup> Buffalo's large Polish working class community welcomed the "army" and Rybakowski decided to stay a little longer in the Buffalo area. Police officials, city officials and businessmen did not appreciate the presence of the socialist Rybakowski in their city or the highly visible symbols of working class protest which were his "army" and march across the United States. The high level of working class militancy before the Count's arrival was enough of a problem for the authorities without the Count and his army inspiring greater protest. A joint decision was made by police officials, city officials and businessmen to

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<sup>118</sup> Brian Stoddart, 'Cricket and Colonialism in the English-Speaking Caribbean to 1914: Towards a Cultural Analysis', in Hilary McD. Beckles and Brian Stoddart (eds), **Liberation Cricket: West Indies Cricket Culture**, (Manchester and New York: Manchester University Press, 1995), p.13.

<sup>119</sup> Harring, 'Class Conflict and the Suppression of Tramps in Buffalo, 1892-1894', pp.894 and 898; the quote is from p.894.

remove the potential "threat".<sup>120</sup> After an eviction notice was ignored by the "army" on 24 August, ninety of its members were tried on charges of being tramps later the same day. About seventy of the accused were convicted and sentenced to imprisonment as tramps that afternoon, with eight additional men imprisoned the next morning. A few days later the eleven leaders (who had been remanded to prison at the 24 August trial) were also convicted and imprisoned as tramps after the district attorney decided not to proceed with assault charges carrying a longer term of imprisonment.<sup>121</sup> The abuse of the criminal law by the convicting judges is readily apparent in the sentencing of those convicted, as well as in the imprisonment for being tramps of a number of Buffalo residents who legally could not be defined as tramps.

The sentences ... ranged from six months (the maximum under the Tramp Act) to discharge. As the [Buffalo] *Express* reported: "It was a puzzle to discover the basis for discrimination in sentencing." The key variables appeared to be (1) whether or not the accused had a family; (2) length of "tramphood"; and (3) degree of dirtiness or raggedness. But these guidelines were followed erratically. About ten were discharged without punishment; most of these were from Buffalo and had just joined the Army,

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<sup>120</sup> Harring, 'Class Conflict and the Suppression of Tramps', pp.895-900 and 905-906.

<sup>121</sup> Harring, 'Class Conflict and the Suppression of Tramps', pp.900-905. Preceding the mass trial the police and special deputies conducted a club-swinging charge outside the court to ensure the suddenly reluctant army (which had voluntarily marched for an hour under police escort to reach the court) would enter. No one was convicted of any violent offence concerning this incident; the only convictions were for being a tramp. (The sequence of events is a little complicated, but it appears the Count calmed a tense standoff between his men and the police at the army's camp by agreeing to be tried as a tramp. His men showed their support for him by accompanying him to the court, though it is unclear whether or not they realised they were to be tried as well. Along the way to the court the army learnt that the evening newspapers were already reporting them to have been convicted and imprisoned. The army grew nervous and at the end of the march refused to enter the court. An apparently peaceful standoff ensued until the police charged. After the nine "tramps"

though a few were family men from Cleveland and Detroit. Other Buffalo residents were given jail terms, sentences which were illegal because the Tramp Act only applied to people outside their county of residence. The lengths of the sentences were deliberately staggered so that men would be released and thrown out of town at different times to prevent regrouping. Much of the difference in sentence lengths was purely arbitrary.<sup>122</sup>

Two additional aspects of the mass trial of Rybakowski's "industrial army" provide further evidence that Judge Foster's priority on 24 August 1894 was neither judicial impartiality nor fair hearings. A pile of commitment forms to Erie County Penitentiary had been completed before the mass trial, and seventy men were tried (and fifty-nine sentenced) by a single judge in less than two hours.<sup>123</sup>

The potential for, and wide range of, biased actions by those empowered to try, convict and sentence under the criminal law is clear from the examples and evidence presented in this chapter. The extent, if any, to which a judicial crackdown was enacted in Wellington during the heightened social tensions of 1913 shall be determined using an analysis of first, conviction rates, secondly, any evidence of questionable trial procedures allowed by judges, thirdly, the severity of sentences, and fourthly, bail applications allowed and refused.

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seriously wounded in the charge were taken to hospital the trials commenced. See Haring, pp.900-903 for a detailed discussion of these events.)

<sup>122</sup> Haring, 'Class Conflict and the Suppression of Tramps', p.903. Also see pp.904, 905 and 907. Haring on p.909 reproduces the New York Tramp Act of 1885; see paragraph 6 for the exclusion of local residents from prosecution as tramps.

<sup>123</sup> Haring, 'Class Conflict and the Suppression of Tramps', pp.901 and 903. Haring, p.904, notes that 'by the time the judge had finished with the first 70 tramps, the police brought in 20 more picked up in a massive search of the area. They were also sentenced on the spot.' This, along with the 'about ten' men convicted but not imprisoned (quoted above), explains any apparent contradiction in the number of convictions on 24 August given above.

### c) The Government and the Criminal Law during Industrial Disputes

The government, as well as the police and the judiciary, could utilise the criminal law to aid the defeat of workers during industrial disputes. Most government intervention which directly made use of the criminal law was carried out by the police or, less frequently, by the military. The implementation by the police of one example of such intervention, government directives to arrest and prosecute strike leaders, has been discussed above. The government could also designate normally legal activities as illegal for the duration of the dispute or modify the criminal law to make repression easier.

Marches and demonstrations could be banned as during the Winnipeg General Strike of 1919, in Estevan, Canada in 1931, and in Akron, Ohio in 1913.<sup>124</sup> The bans could apply to all mass public gatherings, to only those by certain groups, or to particular planned protests which the authorities knew about in advance. Any individuals who defied these government decrees became liable for arrest on such criminal charges as unlawful assembly. These bans, by inhibiting peaceful protest, often contributed to or hastened the defeat of strikes. For example, Rosswurm argued the riot decree prohibiting parades, picketing and demonstrations issued by Akron's mayor in 1913 was one of "the repressive tactics of city officials" which aided the rubber employers' victory.<sup>125</sup> Harring elaborated on the impact of the ban in

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<sup>124</sup> Winnipeg and Estevan: Brown and Brown, **An Unauthorized History of the RCMP**, pp.42 and 70 respectively; Akron: Rosswurm, 'A Strike in the Rubber City', pp.81-82 and 85-87; and Harring, **Policing a Class Society**, p.130. In each of these examples the ban came from the level of local government: in Winnipeg and Akron from the mayor; in Estevan from the town council.

<sup>125</sup> Rosswurm, 'A Strike in the Rubber City', pp.85-87; the quote is from p.86.

Akron: 'With use of the streets curtailed, it was impossible to rally strikers' spirits or to persuade nonstriking workers peacefully to stay out. Left to their own devices, the strikers drifted back to work.'<sup>126</sup>

The government could also devolve authority to ban meetings to senior police officers, as during the British Miners' Strike of 1926. The Home Secretary, 'Joynson-Hicks, by an order of 19 October, empowered police chiefs to prohibit meetings without reference to him if they believed they might lead to a breach of the peace'.<sup>127</sup> The chief constable of Staffordshire used his new power to ban a mass meeting due to be addressed by the Secretary of the Miners' Federation of Great Britain [MFGB]. The local miners' officials 'were threatened with arrest if they attempted to hold the meeting anywhere in Staffordshire.'<sup>128</sup> Morgan's summary of the impact of the Home Secretary's decision provides useful insights into the motivation for and the repressive potential of such actions: 'In all, sixty-three meetings were prohibited in England and Wales in the period between the making of the order and 14 November. The issue of the police ban on meetings was raised by Labour members in the House of Commons. The outcry against the Home Secretary's order finally led to its being revoked on 26 November, but by that time the effect had been achieved and the miners were back at work, crushed and embittered.'<sup>129</sup>

The modification of the criminal law during an industrial dispute had the potential to significantly influence the outcome of that dispute. In response to

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<sup>126</sup> Harring, **Policing a Class Society**, p.131.

<sup>127</sup> Morgan, **Conflict and Order**, p.207.

<sup>128</sup> Morgan, **Conflict and Order**, p.208.

<sup>129</sup> Morgan, **Conflict and Order**, p.208.

the 1894 shearers' strike Queensland Colonial Secretary Tozer introduced the draconian Peace Preservation Bill.

This measure applied only to certain districts, meaning that citizens of one part of the colony lived under entirely different laws from those that applied in the other part. A person living in the designated district could be detained for up to thirty days without trial, and no longer had the right to refuse to answer a question on the grounds that it might incriminate them. Trial by jury was abolished. Eight of the seventeen Labour Members of Parliament, including Glassey, were suspended and ejected from the House during the debate on the bill. Fortunately, the strike was over before these measures came into effect.<sup>130</sup>

The negative impact of Tozer's Bill on the strike and on the civil liberties of the strikers if the dispute had lasted longer can be easily imagined.

Legislators in New South Wales reacted in a similar manner to the timber workers' strike of 1929. Sections of the criminal law were rewritten to improve the success rate of prosecutions against troublesome strike leaders.

The Intimidation and Molestation Act [of 1929] as finally passed ... contained modifications of criminal procedure. In July 1929 seven union leaders were arrested in Sydney on charges of conspiracy to unlawfully molest, intimidate, and assault nonunionists. The offenses in question were subject to trial before a jury, and for want of sufficient evidence the prosecution was unable to obtain a conviction. To assure future convictions on similar charges, the government had the act provide for the relevant offenses to be tried summarily rather than before a jury.<sup>131</sup>

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<sup>130</sup> Svensen, *The Shearers' War*, p.207.

<sup>131</sup> Grabosky, 'Sydney: The Politics of Crime and Conflict, 1788 to the 1970s', p.397, and see pp.395-397 for the broader context of the legislation. For a detailed analysis of the timber strike see Miriam Dixon, 'The Timber Strike of 1929', *Historical Studies Australia and New Zealand*, vol. 10, no. 40, May 1963, pp.479-492. Dixon briefly discusses the arrests, trial and acquittals on p.487.

The hypotheses discussed and developed within this chapter and in Chapter Three indicate the wide range of ways in which crime and the criminal law could be used for the purposes of protest, conflict, repression and attempts to maintain civil order during industrial disputes. The extent to which these hypotheses account for the crime and criminal prosecutions in Wellington in 1913 will be determined in the next two chapters.



## Chapter 5

**Crime as Protest and the 1913 General Strike in Wellington**

If a police constable uses his baton to you give him one back, and if one won't do make it a double-header. If we have got to fight the police force and the military, it has got to be done in style and effectually. .... If the employers are not prepared to act in a conciliatory spirit, and if they put on 'scabs' to work cargo, there will not be a wharf for 'scabs' to work on. .... If I have got to incite the multitude I will incite them, and in a proper manner.

William Thomas Young (president of the United Federation of Labour and secretary of the Wellington Branch of the Seamen's Union) to a meeting of strikers and sympathisers at the Basin Reserve, Wellington on 26 October 1913.<sup>1</sup>

"Apparently", continued counsel, "to be a striker nowadays is to be one of the damned, and the mere fact that a man is a striker is taken as conclusive evidence against him."

Mr. J. F. W. Dickson defending a striking waterside worker (Thomas Acland) during a criminal prosecution in the Wellington Magistrate's Court on 03 December 1913.<sup>2</sup>

URGENT. Please wire urgent to all men in charge of stations in your district to try to rouse settlers and others to come here with horses to act as Special Constables and assist in settling strike quickly. If we get assistance quickly the strike will be over quickly. If no assistance forthcoming it will drag on and business throughout the country will be paralysed. I will arrange for special train for men and horses when necessary.

Telegram from the Commissioner of Police, John Cullen, to Police Inspector Wilson, Wanganui, 30 October 1913.<sup>3</sup>

I am quite satisfied that there will never be industrial peace in this country as long as the Red Feds are allowed to control matters or even interfere. At first I thought it was possible to make satisfactory arrangements for a settlement of the difficulty without attempting to oust the Red Federation. I am not of that opinion now.

Prime Minister William Massey (in a telegram to J. H. Gunson, chairman of the Auckland Harbour Board), 11 November 1913.<sup>4</sup>

<sup>1</sup> Young was prosecuted by the Wellington police for these comments and convicted (see footnote 145 below, pp.205-206). The quote above is from the official wording of the charge as reported in **The Dominion**, 13 November 1913, p.8, col. 4.

<sup>2</sup> **The Dominion**, 04 December 1913, p.9, col. 8. Acland pleaded not guilty but was convicted by Magistrate J. S. Evans. 'The Magistrate said he saw no reason to doubt the evidence of the police, who were positive in their identification.'

<sup>3</sup> This telegram is part of the '1913 Strike - North Island File' held at Archives New Zealand, Wellington (AAAC, W3539 / 52b).

<sup>4</sup> Telegram, Massey to J. H. Gunson, 11 November 1913, held at Archives New Zealand, Wellington, under Prime Minister, Strike Files, 1913 Waterfront Strike, 30 October - 30 November, (Archives reference: P.M. 9/13). Also quoted in Hughes, 'Massey's Cossacks', p.23; and quoted in part in Hill, **The Iron Hand in the Velvet Glove**, p.320.

On 18 October 1913 the Wellington Shipwrights Union, consisting of less than fifty men, chose to strike over a relatively minor issue of transport time.<sup>5</sup> Within four days the dispute had escalated into a complete stoppage of all work on the Wellington wharves by the 1,600 members of the Wellington Watersiders Union.<sup>6</sup> A separate dispute at Huntly resulted in a coal miners' strike starting on 20 October. The grievance of the Huntly miners concerned dismissals by the mine owners which were perceived to be anti-union.<sup>7</sup> So began the General Strike of 1913. During the following two months a total of 14,000 to 16,000 unionists throughout the country would become involved in the second major industrial dispute in New Zealand's history.<sup>8</sup> The strike in the ports of New Zealand would end on 20 December 1913, with the total defeat of the United Federation of Labour and its policy of militant unionism (that is, the use of the strike).<sup>9</sup>

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<sup>5</sup> Pettit, **Wellington Watersiders**, p.51 stated that the union comprised 30 men; Olssen, 'The Great Strike of 1913', p.2024 gave the figure as 38; and in his later 1988 work, **Red Feds**, p.176, Olssen noted there were 47 men in the union prior to the strike, and on p.180 wrote that 'about 40 shipwrights struck.'

<sup>6</sup> For full accounts of the escalation see Olssen, 'Great Strike', p.2024; Olssen, **Red Feds**, pp.176 and 180-181; Roth, **Trade Unions in New Zealand**, p.37; also see Pettit, **Wellington Watersiders**, pp.53-55 and 63; Hill, **The Iron Hand in the Velvet Glove**, p.305; and **The Evening Post**, 18 October 1913 to 25 October 1913 and 31 October 1913.

<sup>7</sup> Olssen, **Red Feds**, p.180; Olssen, 'Great Strike', p.2023; and **The Dominion**, 21 October 1913, p.8, cols. 1-2.

<sup>8</sup> Martin, **Holding the Balance**, p.116; and Roth, **Trade Unions**, p.38. Also see Chapter One, footnote 3 (p.2) in the current thesis. On the spread of the strike to Auckland, Lyttelton, Christchurch, Dunedin, the West Coast and Oamaru see Olssen, **Red Feds**, pp.181-182, 190 and 193. On the further escalation of the strike in Auckland and the smaller escalations in the other centres see Olssen, **Red Feds**, pp.191-194, 196 and 198-200; and Hill, **The Iron Hand in the Velvet Glove**, pp.314 and 316.

<sup>9</sup> The United Federation of Labour officially ended the strike in the ports on Saturday 20 December and requested that the strikers report for work on 22 December 1913. The last of the miners did not end their strikes until January 1914. (Olssen,

The origins of the strike and the issues at stake within it were, of course, not as simple as an issue of transport time affecting less than fifty men or the dismissal of three miners who had been elected to the executive of the Huntly coal miners' union. This most violent of New Zealand industrial disputes was not fought over conditions of work nor the level of wages. Instead, what was at stake was the relative level of political and economic power that the working classes of New Zealand (or at least those who supported the United Federation of Labour) had in relation to their employers and the government. With the growth of the (United) Federation of Labour between 1909 and 1913 the power of militant trade unions and their working class members was, for the first time since the defeat of the Maritime Council in 1890, perceived as a challenge to the power and authority of the employing and governing elites.<sup>10</sup> Prime Minister Massey clearly articulated this on 11 November 1913, as quoted above (see p.143). By 1913, after the decisive defeat of unionists in the Waihi Strike of 1912 and the partially successful attempts at the unification of all unionists which had followed,<sup>11</sup> a major

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'Great Strike', p.2033; Olssen, **Red Feds**, pp.207-209; and Roth, **Trade Unions**, p.39).

<sup>10</sup> The Federation of Labour was formed in 1909, and became the United Federation of Labour in mid-1913. (Roth, **Trade Unions**, pp.30 and 35-36). On the hostility of many employers to the (United) Federation of Labour see Olssen, **Red Feds**, p.186; and Hill, **The Iron Hand in the Velvet Glove**, pp.304-305 and 314.

<sup>11</sup> For detailed discussions of the Waihi Strike see Olssen, **Red Feds**, pp.134-143 and 148-160; Erik Olssen, 'Trouble At Waihi', **New Zealand's Heritage**, vol. 5, part 72, 1971, pp.1989-1992; Hill, **The Iron Hand in the Velvet Glove**, pp.283-295; Roche, **The Red and the Gold**; Laurie Barber, 'The Waihi Strike of 1912', **The New Zealand Law Journal**, February 1983, pp.57-60; Barry Gustafson, **Labour's Path to Political Independence: The Origins and Establishment of the New Zealand Labour Party 1900-19**, (Auckland: Auckland University Press and Oxford University Press, 1980), pp.59-66; for a contemporary unionist perspective on the events at Waihi see H.E. Holland, "Ballot Box" (i.e. F.E. O'Flynn) and R.S. Ross, **The Tragic Story of the Waihi Strike**, (Wellington: "Worker" Printery, 1913). For

confrontation between militant unionists and the largest employers of unskilled workers had become almost inevitable.

Historians of the General Strike have tended to agree that the strike was intentionally provoked by employers, or at least intentionally prolonged by employers once the opportunity presented itself. The employers' aim in either instance was to severely weaken, if not destroy, the United Federation of Labour before it consolidated its position.<sup>12</sup>

The ongoing hostility between the (United) Federation of Labour and many of the country's employers was exasperated by the actions of the rank-and-file watersiders in Wellington. On the morning of 20 October 1913 the Wellington watersiders held a stop-work meeting to consider the union's position in relation to the strike by the shipwrights. After the stop-work meeting a small number of watersiders found that their current labour assignments had been given to other workers who had not attended the

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detailed discussions of the rise of the Federation of Labour (which became the United Federation of Labour in 1913) see Olssen, **Red Feds**, pp.1-179; Erik Olssen, 'Some Reflections about the Origins of the 'Red' Federation of Labour 1909-1913', in Eric Fry (ed), **Common Cause: Essays in Australian and New Zealand Labour History**, (Wellington: Allen and Unwin and Port Nicholson Press, 1986), pp.27-41; Erik Olssen, 'The "Red Feds" ', **New Zealand's Heritage**, vol. 5, part 74, 1973, pp.2066-2072; Gustafson, **Labour's Path**, pp.24-36 and 47-73; Erik Olssen and Len Richardson, 'The New Zealand Labour Movement, 1880-1920', in Eric Fry (ed), **Common Cause**, pp.8-12; Roth, **Trade Unions**, pp.30-36.

<sup>12</sup> For the relative consensus in historical opinion see Hill, **The Iron Hand in the Velvet Glove**, pp.304-305, 310, 314 and 319; Roth, **Trade Unions**, pp.37-39; Pettit, **Wellington Watersiders**, pp.51 and 55; and Miles Fairburn, 'The Farmers Take Over 1912-1930', in Keith Sinclair (ed), **The Oxford Illustrated History of New Zealand**, 2nd edition, (Auckland: Oxford University Press, 1990), pp.197-198 who argue that the 1913 Strike was provoked by employers. Martin, **Department of Labour 1891-1995**, p.116, and Olssen in both 'Great Strike', pp.2024-2028, and **Red Feds**, pp.181-182, 184-186, 189, 191-192 and 200, are less certain that the destruction of the United Federation of Labour was the employers' goal at the beginning of the strike but both agree that by early November 1913 this had indeed become the employers' and the Massey government's intention.

meeting. 'The [shipping] company offered to give other work to the men as it became available but, in defiance of their president, they held another meeting [on 22 October] and 1,500 decided "That no work shall be accepted until such time as the victimised men are re-instated".'<sup>13</sup> On 24 October 'the shipowners offered to reinstate the 1912 agreement if work resumed, but some 1,500 wharfies rejected the proposal.' On the evening of 28 October a meeting between the Wellington shipowners and the wharfies' leaders was held (with the executive of the United Federation of Labour in attendance). 'The employers once more insisted that, if the union would not register under the Arbitration Act, it had to offer a bond of £1,000 as a guarantee that the agreement would not be broken. The UFL's [United Federation of Labour] negotiators accepted the proposal, but the wharfies' leaders refused and on the 29th [of October] a mass meeting endorsed the refusal.'<sup>14</sup>

Many of the rank-and-file Wellington watersiders 'felt that the Union Company had "assumed a DICTATORIAL ATTITUDE" and thrown down the gauntlet.'<sup>15</sup> The hostility of the rank-and-file to their employers was only intensified when the government of William Massey began recruiting thousands of "special" constables to protect civil order and to help re-open the ports. The special constables were also extremely unpopular with strikers and strike sympathisers.<sup>16</sup> The first mounted special constables from rural

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<sup>13</sup> Olssen, **Red Feds**, pp.180-181 (the quote is from p.181).

<sup>14</sup> Olssen, **Red Feds**, p.181.

<sup>15</sup> Olssen, **Red Feds**, p.181 (the capitalisation is in Olssen).

<sup>16</sup> Hill, **The Iron Hand in the Velvet Glove**, pp.305, 308, 310 and 312; and see the editorial entitled 'Law or Anarchy?' in **The New Zealand Times**, 31 October 1913, p.6, cols. 3-4.

areas arrived in Wellington on the night of 29 October, and were sworn in the next day.<sup>17</sup>

For Erik Olssen, 'the conflict had become intractable when the waterfront employers handed control of the dispute to the Employers' Federation on 30 October.' 'And so, to break the UFL, the Employers' Federation withdrew the previous offer of a three-year agreement and a bond.'<sup>18</sup>

In early November the employers announced that they would only deal with unions which were registered under the Arbitration Act. (This was an unacceptable condition of settlement for those unions affiliated with the United Federation of Labour. These unions had chosen to leave the Arbitration system and had no intention of returning to it, or to once more experience the limits it placed on their collective bargaining power and on their right to strike). A conference presided over by the Prime Minister was held between the United Federation of Labour and the employers on 04 November. At the start of the conference 'the unionists were told that "nothing short of compulsory arbitration would do. Tom Young asked if that was the Ultimatum, and Foster [for the employers] replied "Absolutely". Young snapped: "it is no use for this conference to continue sitting." The Prime Minister promptly ended' the conference.<sup>19</sup> On 06 November a new Arbitration union of wharf labourers was registered and began work on the

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<sup>17</sup> See **The Dominion**, 30 October 1913, p.8, cols. 3-4; and 03 December 1913, p.9, col. 2 (report of a court case related to the reception given to the special constables upon their arrival); and Hill, **The Iron Hand in the Velvet Glove**, p.308.

<sup>18</sup> Olssen, **Red Feds**, p.186.

<sup>19</sup> Olssen, **Red Feds**, p.186.

Wellington wharves.<sup>20</sup> *The Dominion* of 07 November contained the 'manifesto' of the Wellington Citizens' Defence Committee. (The Committee was a powerful group set up to oppose the strike and assist the employers in re-opening the port). The manifesto announced that 'The Committee is pledged not to employ labour belonging to organisations not registered under the Arbitration Act'.<sup>21</sup> Many strikers appear to have suspected this was the employers' intention all along.

Regardless of which side bears more responsibility for the initiation and escalation of the strike, the result of the early stages of this industrial dispute was the heightening of class tensions in New Zealand society, arguably to unprecedented levels. These social tensions were especially acute in the port cities where militant unionists and special constables (or "Massey's Cossacks") encountered each other on a daily basis during the height of the strike. Frequently these encounters turned violent, especially so in Wellington where riots, cavalry charges by mounted constables, missile throwing, deliberate property damage and assaults occurred on an almost daily basis from the end of October through to the first week of November. The most serious of these riots received the designation "The Battle of

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<sup>20</sup> **The Dominion**, 07 November 1913, p.8, col. 7. On the regular occupations of these Arbitrationists see Chapter One of the current thesis, pp.3-4.

<sup>21</sup> **The Dominion**, 07 November 1913, p.3, cols. 2 and 3. Erik Olssen, **Red Feds**, p.186, described the Committee in the following way: 'Pryor [the secretary of the Employers' Federation], uneasy that some of his allies (especially the Union Steam Ship Company), might withdraw as the situation worsened, took the initiative in organizing a citizens' committee in Wellington. Others were formed in major cities. Dominated by rabid anti-unionists, these committees kept watch over the Employers' Federation.'

Featherston Street".<sup>22</sup> Even when disturbances were not in progress, the threat of, and potential for, violence remained high for many weeks. The social tension in Wellington is evident by the fact that day after day during the height of the strike, angry crowds of unionists and their supporters faced Royal New Zealand Artillerymen armed with rifles and machine-guns at the barricades constructed at the Taranaki and Tory Street intersections with Buckle Street. These army personnel were assigned to protect the quarters of the mounted special constables stationed in Wellington. (The "specials" were one of the State's main tools for crushing the unionist opposition).<sup>23</sup> Leader of the Parliamentary Opposition, Sir Joseph Ward, evocatively captured the reality of those turbulent weeks in Wellington in late 1913: describing it as 'a system of Mexican revolt and civil war' which existed on the normally tranquil streets of Wellington.<sup>24</sup>

The level and intensity of violence experienced during the General Strike played an important role in Keith Sinclair writing that 'The years 1912 and 1913 witnessed the most violent scenes since the Anglo-Maori wars as the Government, the employers, and the "cow-cockies" [dairy farmers - mainly small scale and North Islanders] smashed the "Red Feds"'.<sup>25</sup> It seems remarkable that no one was killed during the strike, although the list of the injured must have been large, among unionists, the forces of the state, and

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<sup>22</sup> For an evocative, detailed and revealing account of the major violent incidents during the 1913 Strike throughout New Zealand, especially thorough on the violent events in Wellington see Hill, **The Iron Hand in the Velvet Glove**, pp.305-321.

<sup>23</sup> Hill, **The Iron Hand in the Velvet Glove**, pp.309, 312-313 and 320; and see Olssen, **Red Feds**, pp.183-184.

<sup>24</sup> *New Zealand Parliamentary Debates*, vol. 167, p.1084, 12 December 1913, quoted in Roth, **Trade Unions**, p.38.

<sup>25</sup> Keith Sinclair, **A History of New Zealand**, [The Pelican History of New Zealand], revised edition, (Harmondsworth, Middlesex: Penguin, 1969), p.209.



even the general public of Wellington.<sup>26</sup> Miles Fairburn stated that 'In 1912 and 1913 New Zealand came closer to class war than at any other time in its history'.<sup>27</sup>

The months of October through December 1913 were unquestionably a period of heightened social tension and overt social conflict in the port cities and mining communities of New Zealand. In addition to mass demonstrations, angry crowds, fiery rhetoric from the strike leaders, the presence of hundreds of mounted special constables armed with batons, and the replacement of strikers with volunteer workers there were outbreaks of serious violence and rioting and the fear of further disorder and violence.

In numerous major industrial disputes crime has been utilised by strikers as protest.<sup>28</sup> The enforcement of the criminal law has also frequently changed during strikes and lockouts in response to the heightened social tension and overt social conflict.<sup>29</sup>

The current chapter and Chapter Six will analyse criminal prosecutions and other reported crimes in Wellington for any evidence that crime or the enforcement of the criminal law were influenced by the 1913 strike. The current chapter will focus on crime as protest. Various ways in which crime

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<sup>26</sup> During the previous year not all of those involved in the Waihi Strike had been as fortunate. One unionist, Frederick George Evans, died of injuries sustained during an assault on the union headquarters of the Waihi strikers by the "scab" or non-union labourers; an illegal raid which, as far as historians can tell, was aided and abetted by the police stationed in the area. Evans became the first (and so far only) person to die as a direct result of confrontation between police and workers in an industrial dispute in New Zealand. (Hill, **The Iron Hand in the Velvet Glove**, pp.288-293; also see Roche, **The Red and the Gold**, pp.117-131; Campbell, 'The Role of the Police in the Waihi Strike', pp.38-40; Olssen, **Red Feds**, pp.159-160; and Gustafson, **Labour's Path**, pp.62-63).

<sup>27</sup> Fairburn, 'The Farmers Take Over', p.197.

<sup>28</sup> See Chapter One and Chapter Three.

<sup>29</sup> See Chapter Four.

has been used as protest during industrial disputes outside of New Zealand were described in Chapter Three. Chapter Six will analyse the uses made of the criminal law. The ways in which the enforcement of the criminal law has been used in some situations to repress strikers and their sympathisers have been discussed in Chapter Four, as has the possibility for a crackdown on offending which is not intentionally repressive but is simply intended to prevent more serious disorder during a period of heightened social tension. Together this chapter and Chapter Six will examine whether or not crime and the criminal law were used for similar purposes in 1913 as they were in numerous other major strikes throughout the industrialised world.

### **The Crimes:**

Before any analysis of the purposes of criminal offences and criminal prosecutions can be attempted knowledge of the charges which are being discussed is needed.

In connection with the two month period of the General Strike, from 18 October 1913 to 20 December 1913, those accused of 78 violent crimes, 82 cases of larceny and 141 other potentially protest related offences directed against the State committed in the wider Wellington region (including the Hutt electorate) were prosecuted in the Magistrate's Court in Wellington.<sup>30</sup> The

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<sup>30</sup> No attempt has been made to divide the cases by the general location of the crime. Such an attempt would just create a mass of figures and tables of even greater complexity than they are at the moment, without generating significant additional explanatory power. The vast majority of prosecuted crimes were committed in Wellington city and its suburbs. Only three of the violent crimes (3.85%; two in Eastbourne and one in Trentham), and five larcenies (6.10%; three in Lower Hutt, one in Petone, and one on the high seas), were committed outside the Wellington electoral districts. These eight cases still need to be considered in the overall analysis of social conflict and protest through crime, in case the illegal expression of strike-related

majority of these charges were brought before the Court and dealt with during the strike or in the three days following the calling off of the strike. The remaining cases (two violent crimes, 27 thefts, and three other potential protest offences) appeared before the Magistrate in January or February 1914, apart from one theft charge heard on 29 December 1913. The breakdown of the specific types of cases can be seen in Tables 1, 2 and 3.<sup>31</sup>

Thirty criminal charges of rioting and unlawful assembly were prosecuted within the Wellington judicial system and eight of the strikers' leaders were charged with uttering seditious language or inciting public disorder. One strike leader, Harry Holland, was sentenced to a year in jail for seditious language. Allegations of assaults on and verbal abuse towards special constables became a daily feature of court proceedings. Less serious strike related offending also occupied the court's time. One striking watersider was convicted of loitering, and two individuals were prosecuted for setting off fireworks in a public place so as to endanger passers by.<sup>32</sup>

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hostilities spread beyond the confines of the Wellington city and suburbs boundaries. Given the relative ease of transport between Wellington and Lower Hutt and to a lesser extent for the wider Wellington rural region as a whole, this scenario of the spread of strike-related hostility may well have occurred and needs to be considered. The small number of such cases, in any instance, should have little impact on the overall body of data that is analysed; while ensuring that a potential site of social conflict or protest through crime outside the specific centre of the strike is not overlooked.

<sup>31</sup> In categorising violent crime and crimes against the state, when there was more than one charge per individual regarding a particular set of events (for example, obstruction and attempting to incite a breach of the peace, or property damage and resisting arrest) each charge has been considered as a separate "criminal" act.

<sup>32</sup> On the loitering conviction see **The Dominion**, 29 November 1913, p.12, col. 4; and **The Evening Post**, 28 November 1913, p.8, col. 1. For the fireworks prosecutions see **The Dominion**, 20 December 1913, p.6, col. 2. The original charges were 'so as to endanger passers by'. They were amended to 'so as to frighten passers by'. (See Wellington Magistrate's Court Criminal Record Book, no. 83, December 1913, prosecution no.s 6567 and 6568).

**Table 1: Categorisation of Violent Crimes Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

Type of Violent Crime	Frequency	% of Total	Individuals Charged
<b>Against Persons:</b>			
Attempted Murder	1	1.28%	
Serious Assault = Actual or Grievous Bodily Harm	3	3.85%	
Intention to do Grievous Bodily Harm with a firearm	1	1.28%	
Assault <sup>33</sup>	40	51.28%	39 individuals
Threatening Behaviour whereby a Breach of the Peace was occasioned	16	20.51%	21 individuals
- of which 5 were fights / brawls in public places			(10 individuals)
<b>Total:</b>	<b>61</b>	<b>78.21%</b>	
<b>Against Property:</b>			
Wilful damage or destruction:			
of windows (including 1 window & street lamp)	8	10.26%	
of barriers / barricades (definitely strike related)	5	6.41%	
of shrubs in a city reserve	1	1.28%	
of motor car (damage of)	2	2.56%	
of a cell door	1	1.28%	
<b>Total:</b>	<b>17</b>	<b>21.79%</b>	
<b>Total Violent Crime in Wellington:</b>	<b>78</b>	<b>100.00%</b>	
<b>- During the General Strike of 1913</b>			

<sup>33</sup> Four of these assault charges were private prosecutions (none of which were strike related). In all other strike period assaults and violent crimes the prosecutor was the police.

**Table 2: Categorisation of Crimes of Theft Committed in Wellington  
During the General Strike of 1913 which resulted in Prosecutions in the  
Wellington Magistrate's Court <sup>34</sup>**

Type of Larceny			Frequency		% of Total	
Attempted Theft	(of money)		1		1.22%	
Breaking and Entering	(nothing stolen)		2		2.44%	
Breaking and Entering & Committing Theft			12		14.63%	
False Pretences with Intent to Defraud			1		1.22%	
Theft			66		80.49%	
<b>Total:</b>			<b>82</b>		<b>100.00%</b>	
<b>Type of Items Stolen</b>			(including the attempted theft)			
Animals and /or Animal Related Goods			2		2.50%	(1 cocker spaniel & 2 fowls)
Building materials / raw materials			5		6.25%	
Bicycles			4		5.00%	(including 1 motor bicycle)
Clothing:			28		35.00%	
	Overcoats	9		11.25%		
	Boots	9		11.25%		
	Miscellaneous	10		12.50%		
Clothing & Household Items			1		1.25%	
Clothing & Valuable Goods			2		2.50%	(incl. 1 diary & 1 tie pin)
Foodstuffs:			5		6.25%	
	Alcohol	2		2.50%		
	Food	2		2.50%		
	Tobacco	1		1.25%		
Household Goods			9		11.25%	(incl. 2 brief bags & 1 swag)
Money			8		10.00%	
Money & Valuables			7		8.75%	
Valuables:			7		8.75%	(incl. in one instance
	Combination of jewellery	3		3.75%		1 revolver)
	Rings	1		1.25%		
	Watches	3		3.75%		
Tools			2		2.50%	(including 1 wheelbarrow)
<b>Total instances where items were stolen:</b>			<b>80</b>		<b>100.00%</b>	

<sup>34</sup> The categories of items stolen listed in this table are based on Rudé's model, **Criminal and Victim**, p.11. These figures are tabulated for informative purposes only. The statistically small sample would lead to any major conclusions drawn from any analysis by type of item stolen or by type of larceny to be of uncertain validity. General trends will be commented upon, but this will be as far as this analysis of specific types of larceny and items stolen will progress.

**Table 3: Categorisation of the Crimes Against the State Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court <sup>35</sup>**

Type of Crime Against the State			% of	Use of the
		Frequency	Total	term scab or similar
<b>Violence Against the State</b>				
<b>Against Persons</b>				
	Attempted Murder of the Commissioner of Police (charge not proven)	1	3.57%	
	Intention to do Grievous Bodily Harm with a Firearm	1	3.57%	
	Intention to do Grievous Bodily Harm / causing Actual Bodily Harm	2	7.14%	
	Assault against regular police	7	25.00%	
	Assault against special constables	12	42.86%	
	Threatening Behaviour whereby a Breach of the Peace was occasioned - in connection with "riots" (3)	3	10.71%	
<b>Against Property</b>				
	Wilful damage or destruction: of a cell door ; of a pane of glass	2	7.14%	
	<b>Total Violent Crime Against the State:</b>	<b>28</b>	<b>100.00%</b>	
<b>Theft against the State</b>				
	Theft: of certain brass fittings value £2	1		
	<b>Total Theft Against the State:</b>	<b>1</b>		
<b>Other Crimes Against the State</b>			% of	term scab
			<b>Total</b>	or similar
	Taking Part in a Riot	25	17.73%	
	Taking Part in an Unlawful Assembly	5	3.55%	
	Inciting diverse persons to assault / resist police constables	6	4.26%	
	Inciting a breach of the peace / persons to commit a breach of the peace	5	3.55%	
	Uttering Certain Seditious Words	5	3.55%	
	Application for sureties of the peace by the State (based on seditious words)	3	2.13%	
	Threatening Behaviour	6	4.26%	
	Threatening Behaviour with Intent to Provoke a Breach of the Peace	2	1.42%	
	Insulting Words with Intent to Provoke a Breach of the Peace	21	14.89%	
	- using the term "scab", or similar term			15
	Obscene Language	42	29.79%	
	- using the term "scab", or similar term			7
	Setting off fireworks in a public place so as to endanger passers by	2	1.42%	

<sup>35</sup> This table includes those violent crimes and theft already categorised in Tables 1 and 2 which were directed against the enforcers of the law, government institutions, or the State's definition of good order (the latter especially encompassing cases of 'Threatening Behaviour whereby a Breach of the Peace was occasioned' during "riots") as well as all other crimes against the State which could be considered as possible means of social conflict for or against the State.

	Loitering in a public place	1	0.71%	
	Possession of a Firearm (though all air rifles by children)	2	1.42%	
	Deemed to be a Rogue & a Vagabond found with an offensive weapon	2	1.42%	
	Did Commit Mischief by Burning two panels of a padded cell	1	0.71%	
	Resisting Arrest	7	4.96%	
	Obstruction	2	1.42%	
	Driving a motor-car in a dangerous manner (victims: special constables)	1	0.71%	
	Negligently driving a tramcar (victims: special constables)	1	0.71%	
	Did not exhibit license for vehicle when requested to by police constable	1	0.71%	
	Did not stop vehicle engine as requested to by constable	1	0.71%	
	<b>Total All Other Crime Against the State:</b>	<b>141</b>	<b>100.00%</b>	<b>22</b>
	<b>Total All Crime Against the State:</b>	<b>170</b>		

Another striking waterside worker was fined £3 for yelling “there goes one of the parasites” at the driver of a passing motor-car.<sup>36</sup>

None of the Wellington cases were quite as bizarre as one of the Auckland strike related crimes. William Thomas Doyle was prosecuted for carrying explosives (six gelignite cartridges) with intent to commit a crime or enable some person or persons unknown to commit a crime. He admitted that he had the explosive in his possession, but pleaded not guilty to any criminal intent. At his Supreme Court trial Doyle ‘swore that the only reason he carried the gelignite explosives was for the purposes of self-defence, in case he found himself in a crowd which was charged by mounted “specials”.’

<sup>36</sup> **The Dominion**, 22 November 1913, p.7, col. 1.

Expert evidence was given at the trial that each cartridge upon explosion would kill or maim everyone within a radius of fifteen to twenty feet.<sup>37</sup>

Not all crime committed during the strike was connected with the industrial tension. The Wellington newspapers described those cases and incidents they felt were connected with the strike separately from “regular” crimes. These newspaper reports provide invaluable information on which crimes were directly related to the strike. This data is presented in Tables 4 and 5.<sup>38</sup> Whether or not all the offences and charges which the newspaper court reporters interpreted as not strike related actually had no connection with the strike is less clear. As well as any covert protest crimes (such as those revealed by the work of James C. Scott), there is the problem of very limited reports on many of the “not strike related” offences. Often there is too little contextual information, if any, provided to be certain the offence has nothing to do with the strike. One simply has to trust (or at least accept) the court reporters’ judgement.

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<sup>37</sup> **The Dominion**, 27 November 1913, p.8, col. 7. The presiding judge advised the jury that ‘a man might use reasonable force in order to defend himself, but explosives were not a reasonable force.’

<sup>38</sup> In a small number of instances the newspapers reported offences as strike crimes even though the connection with the strike was extremely tenuous or coincidental. For example, a Thomas Barker (a different person to the IWW organiser) shot a dog at 5 a.m. on 11 November 1913. The gunshot was heard by a constable on patrol and Barker was arrested for being a rogue and a vagabond found with an offensive weapon. In court, Barker explained that he had recently arrived in Wellington to obtain work on the wharves, and that he had ‘heard that people here were carrying revolvers for purposes of protection.’ (**The Dominion**, 12 November 1913, p.10, col. 4; also see 19 November 1913, p.8, col. 8). This was the only connection between Barker’s case and the strike. To protect the validity of the analysis within this thesis such cases have been considered as non-strike related, and are not included in any of the quantitative or qualitative information concerning strike related offences. They are included instead in the quantitative statistics and comparative analysis of non-strike related offences.



Forty-five of the 78 prosecuted violent crimes (57.69%) committed during the strike were directly related to the industrial dispute, as were 97 of the 141 “other” anti-State offences (68.79%). Only one of the 82 larcenies (1.22%) was reported as a strike crime, and in this case the connection was only made because the police prosecutor stated that the accused ‘had been prominent among those who were disorderly on the waterfront.’<sup>39</sup> This petty theft, of one bag of coal from the Wellington City Corporation, was in all other respects no different from an “ordinary” or pre-strike theft, and does not appear to have been an act of protest. The accused had also been convicted of three similar petty thefts in the sixteen months before the strike.<sup>40</sup>

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<sup>39</sup> **The Dominion**, 17 November 1913, p.8, col. 3.

<sup>40</sup> Wellington Magistrate’s Court Criminal Record Books, no. 82, November 1913, prosecution no. 5837; no. 73, July 1912, prosecution no.s 2953 and 2966; no.75, October 1912, prosecution no. 4990; and **New Zealand Police Gazette**, 1913, p.739. The accused was convicted of another petty theft in April 1914 (**New Zealand Police Gazette**, 1914, p.316). (The Wellington Magistrate’s Court Criminal Record Book, no. 82, actually covers the period 01 October 1913 to 02 December 1913, but for ease of reference it is referred to as November 1913 throughout this thesis, unless otherwise specified. Almost all the references from book no. 82 cited in this thesis are drawn from the November entries. Citing book no. 82 as November 1913 also helps to distinguish it more clearly from book no. 83).

**Table 4: Categorisation of Strike Related Violent Crimes Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

Type of Strike Related Violent Crime	Frequency	% of Total	Individuals Charged
<b>Against Persons:</b>			
Attempted Murder	1	2.22%	
Serious Assault = Actual or Grievous Bodily Harm	2	4.44%	
Intention to do Grievous Bodily Harm with a firearm	1	2.22%	
Assault	27	60.00%	27 individuals
Threatening Behaviour whereby a Breach of the Peace was occasioned <sup>41</sup>	7	15.56%	8 individuals
- of which 1 was a fight / brawl in a public place			(2 individuals)
<b>Total:</b>	<b>38</b>	<b>84.44%</b>	
<b>Against Property:</b>			
Wilful damage or destruction:			
of windows (including 1 window & street lamp)	2	4.44%	
of barriers / barricades	5	11.11%	
<b>Total:</b>	<b>7</b>	<b>15.56%</b>	
<b>Total Strike Related Violent Crime in Wellington:</b>	<b>45</b>	<b>100.00%</b>	
- During the General Strike of 1913			

<sup>41</sup> Including one Insulting Behaviour whereby a Breach of the Peace was occasioned.

**Table 5: Categorisation of the Strike Related Crimes Against the State Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

Type of Strike Related Crime Against the State		Frequency	% of	Use of the
			Total	term scab or similar
<b>Strike Related Violence Against the State</b>				
<b>Against Persons</b>				
Attempted Murder of the Commissioner of Police (charge not proven)		1	4.00%	
Intention to do Grievous Bodily Harm with a Firearm		1	4.00%	
Intention to do Grievous Bodily Harm / causing Actual Bodily Harm		2	8.00%	
Assault against regular police		6	24.00%	
Assault against special constables		12	48.00%	
Threatening Behaviour whereby a Breach of the Peace was occasioned		3	12.00%	
- in connection with "riots" (3)				
<b>Against Property</b>				
none		0	0.00%	
<b>Total Strike Related Violent Crime Against the State:</b>		<b>25</b>	<b>100.00%</b>	
<b>Strike Related Theft against the State</b>				
none		-		
<b>Total Strike Related Theft Against the State:</b>		<b>0</b>		
<b>Strike Related Other Crimes Against the State</b>			% of	term scab
			Total	or similar
Taking Part in a Riot		25	25.77%	
Taking Part in an Unlawful Assembly		5	5.15%	
Inciting diverse persons to assault / resist police constables		6	6.19%	
Inciting a breach of the peace / persons to commit a breach of the peace		5	5.15%	
Uttering Certain Seditious Words		5	5.15%	
Application for sureties of the peace by the State (based on seditious words)	3		3.09%	
Threatening Behaviour		4	4.12%	
Threatening Behaviour with Intent to Provoke a Breach of the Peace		2	2.06%	
Insulting Words with Intent to Provoke a Breach of the Peace		19	19.59%	
- using the term "scab", or similar term				15
Obscene Language		15	15.46%	
- using the term "scab", or similar term				7
Setting off fireworks in a public place so as to endanger passers by		2	2.06%	
Loitering in a public place		1	1.03%	
Deemed to be a Rogue & a Vagabond found with an offensive weapon		1	1.03%	
Resisting Arrest		0	0.00%	
Obstruction		0	0.00%	
Driving a motor-car in a dangerous manner (victims: special constables)		1	1.03%	
Negligently driving a tramcar (victims: special constables)		1	1.03%	
Did not exhibit license for vehicle when requested to by police constable		1	1.03%	
Did not stop vehicle engine as requested to by constable		1	1.03%	
<b>Total All Other Strike Related Crime Against the State:</b>		<b>97</b>	<b>100.00%</b>	<b>22</b>
<b>Total All Strike Related Crime Against the State:</b>		<b>122</b>		

### **The Victims and the Accused:**

In the 301 criminal cases during the strike period 140 individuals were named as victims, including the Commissioner of Police, John Cullen, who was identified as the victim of an alleged murder attempt. There were, in addition, 57 prosecutions where the victims were not named but instead described only by their current occupation (concerning 49 of these charges the victims were police or special constables).

The number of individuals accused was 217. Among the 91 men and three women accused of strike related offences were one future Prime Minister of New Zealand (Peter Fraser) and the future leader of the parliamentary Labour Party from 1918 to 1933 (Harry Holland). Fraser, somewhat ironically, would be Minister in charge of the Police between 1935 and 1949. Other prominent working class leaders of the 1913 strike also found themselves appearing before the Wellington judiciary, including the President of the United Federation of Labour (William Thomas Young) and an organiser for the International Workers of the World (Thomas Barker).<sup>42</sup>

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<sup>42</sup> For discussion of the court proceedings against these strike leaders see pp.143, 153, 204-206 and 215-216 in the current chapter and see Chapter Six, pp.230, 256, 258-261, 273-274, 280-283 and 285. For biographies of Peter Fraser see James Thorn, **Peter Fraser: New Zealand's Wartime Prime Minister**, (London: Odhams Press, 1952); Margaret Clark (ed), **Peter Fraser: Master Politician**, (Palmerston North: The Dunmore Press, 1998); and Tim Beaglehole, 'Fraser, Peter', **The Dictionary of New Zealand Biography, volume 4, 1921-1940**, (Auckland: Auckland University Press; and Wellington: Department of Internal Affairs, 1998), pp.182-186. On Fraser as Minister of Police see Dunstall, **A Policeman's Paradise?**, pp.273-274, 357, 451 (note 5), and 518. For biographies of Harry Holland see P. J. O'Farrell, **Harry Holland: Militant Socialist**, (Canberra: Australian National University, 1964), and Patrick O'Farrell, 'Holland, Henry Edmund', **The Dictionary of New Zealand Biography, volume 3, 1901-1920**, (Auckland: Auckland University Press; and Wellington: Department of Internal Affairs, 1996), pp.226-229. Concerning the career of William Thomas Young see Neill Atkinson, 'Young, William Thomas', **The Dictionary of New Zealand Biography, volume 3, 1901-1920**, pp.578-579; and

### **Protest Through Crime?: Initial Impressions from the Quantitative Data on Criminal Prosecutions:**

If protest had been enacted through criminal means during the time of heightened social tensions of the strike, it would be expected that the number of crimes committed (and theoretically the number of prosecutions) would rise considerably, as more crime was perpetrated against those who were aiding the defeat of the strike and more "criminals" were caught. From the average monthly incidents of each general category of crime for each period presented in Table 6 (p.167) it becomes apparent that there was a dramatic jump in the level of prosecutions for violent crime from 16.24 per month before the strike to 39 per month during the strike, and an even more pronounced increase in the levels of prosecutions for other anti-state offences from 10 to 70.5 per month. This data provides general supporting evidence for the proposition that violent and other anti-state crime may have been used as a means of social conflict in the General Strike of 1913.

Further indications of the influence of the strike on criminal prosecutions is visible in the specific types of violent crime and other anti-

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Conrad Bollinger, **Against the Wind: The Story of the New Zealand Seamen's Union**, (Wellington: New Zealand Seamen's Union, 1968), pp. as listed in Bollinger's index on p.260. On the career of Thomas Barker, and his involvement with the I.W.W., see Tom Barker, **Tom Barker and the I.W.W.**, recorded, edited and with an introduction by E. C. Fry, (Canberra: Australian Society for the Study of Labour History, 1965); Erik Olssen, 'Barker, Tom', **The Dictionary of New Zealand Biography**, volume 3, 1901-1920, pp.30-31; and Verity Burgmann, **Revolutionary Industrial Unionism: The Industrial Workers of the World in Australia**, (Cambridge, New York and Melbourne: Cambridge University Press, 1995), pp. as listed in Burgmann's index on p.329, including pp.70-71 on Barker's time in New Zealand. Also see the brief biographies of each of these men in Gustafson, **Labour's Path**, pp.154, 156, 158 and 169. **The Maoriland Worker**, 03 December 1913, p.8, col. 6, provides useful descriptions of the characters and temperaments of Fraser, Holland and Young.

state offences.<sup>43</sup> Assaults against either special constables or regular police constituted nearly half of all assault prosecutions during the strike (19 out of 40 assaults). In the two years before the strike the police were only the victims in twelve of 189 "common" assaults (6.35 per cent).

The crimes of rioting (25 charges), unlawful assembly (5 charges), inciting breaches of the peace (5), inciting resistance of constables (6), use of seditious words (8), and use of insulting words or threatening behaviour with intent to provoke breaches of the peace (21 and 8 charges respectively) were all frequently prosecuted during the strike. Together these offences constituted 78 of the 141 other anti-state prosecutions. In the preceding two years only four charges in any of these seven categories of crime were prosecuted (one case of threatening behaviour with intent to provoke a breach of the peace, and three instances of inciting to resist police. The accused in one of the three latter offences had encouraged a person being arrested for drunkenness to resist arrest. In contrast, four of the strike period inciting resistance prosecutions related to speeches given in front of hundreds of strikers and sympathisers, and the remaining two charges concerned comments or actions during riots which encouraged other persons to assault special constables).<sup>44</sup> In addition, obscene language prosecutions tripled, from 6.37 per month pre-strike to 21.5 per month for the strike period.

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<sup>43</sup> See Appendices 2, 3a, 3b and 4 for the specific types of violent crime, larceny and other anti-state offences committed and prosecuted in the two year pre-strike period. These tables are directly comparable with Tables 1, 2, 3, 4 and 5 in the current chapter.

<sup>44</sup> Concerning the pre-strike inciting to resist police prosecutions see **The Dominion**, 10 December 1912, p.3, col. 4; and 14 January 1913, p.3, col. 4; and **The Evening Post**, 12 October 1912, p.5, col. 3. (Two of these three men - James Patrick Hassett and Antonio Stuparich - were later convicted of taking part in a riot during the 1913 strike. See **The Dominion**, 25 November 1913, p.9, col. 4; 03 February 1914,

The crime of larceny, however, does not appear to have been used as a form of social conflict (at least no more so than usual). The average monthly prosecution rate during the strike was a third higher than the two year average (41 compared to 33.31). However, two factors immediately reduce the probable significance of this slight increase. Monthly averages for theft fluctuated considerably during the two years before the strike. For instance, during the six and a half months immediately prior to the strike (01 April 1913 to 17 October 1913) the monthly average was 41.54, almost identical with the strike theft rate.<sup>45</sup> The second cautionary issue is the impact of two individuals (one burglar and one compulsive thief of boots) on the strike prosecuted theft rate. Acting separately these two men committed eighteen of the 82 larcenies (21.95%) of the period. Each had committed multiple similar offences prior to the strike, which indicates that their acts were unlikely to have been caused by the tensions resulting from the strike.<sup>46</sup> Without the

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p.8, col. 5; 06 February 1914, p.5, cols. 1-3; and 09 February 1914, p.3, cols. 4-5). For the strike period inciting resistance charges see **The Dominion**, 12 November 1913, p.8, cols. 4-5; 13 November 1913, p.8, cols. 4-5; 27 November 1913, p.9, cols. 3-4; 28 November 1913, p.9, col. 3; 29 November 1913, p.6, cols. 4-6; 05 December 1913, p.8, cols. 4-5; and 10 December 1913, p.6, col. 5; and **The Evening Post**, 29 November 1913, p.9, col. 6.

<sup>45</sup> Unless otherwise specified the use in this thesis of the term monthly prosecution rates refers to crimes committed during a particular month (or set of months) which were prosecuted at some time, not to the actual number of prosecutions brought before the Magistrate's Court in a particular month or set of months. The lowest number of prosecuted larcenies for any month between October 1911 and September 1913 was 17 for November 1911 and May 1912. The highest number of larceny prosecutions was 74 for July 1913. The next highest months were June 1912 (43 prosecutions), October 1911 (42 prosecutions) and September 1913 (40 prosecutions). For a complete list of the pre-strike monthly totals for larceny prosecutions see Appendix 13.

<sup>46</sup> The burglar committed 11 breaking, entering, and theft offences in Wellington during the strike (including one offence where nothing was stolen). In the two months prior to the strike he committed 11 similar crimes in Wellington, as well as burglaries in Hastings and Napier. The chronic boot thief was convicted of seven separate thefts of boots in Wellington during the strike. The first of these offences was committed

efforts of these two men, or if they had conducted their crime sprees a few months earlier or a few months later, the rate of larcenies during the strike would have been 32 per month, which is lower than the two year pre-strike average.

Elsewhere in the lower North Island some instances of theft were more closely related to the strike. Coal was stolen from railway stations along the Main Trunk line. *The Dominion* explained the cause of the thefts as the shortage of coal due to the strike.<sup>47</sup> *The Fielding Star* warned its readers that a number of conmen were operating in the area. They were taking advantage of peoples' sympathies by pretending to be collecting donations for the wives and children of the strikers.<sup>48</sup> The theft of the coal may have been in part protest against the role of the government in the strike, but there is insufficient detail on these thefts to reach any definitive conclusion. The motivation of the conmen can be safely assumed to have been purely utilitarian. There were no reports of either type of incident in Wellington.

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only a week after he had been released from 3 months imprisonment for three thefts in Wellington in April and July 1913. The items stolen in these three earlier offences were a gentleman's bicycle and two pairs of boots.

<sup>47</sup> **The Dominion**, 25 November 1913, p.6, col. 7.

<sup>48</sup> As reported in **The Evening Post**, 18 November 1913, p.8, col. 7.



**Table 6: Numbers of Crimes Committed in Wellington During and in the Twenty-four and a Half Months Before the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

a) Total No. of Crimes in Wellington During the General Strike of 1913:						
		18 October 1913 to 20 December 1913				
				<b>Total</b>		<b>Average per month</b>
	<b>Violent Crime:</b>			78		39
	<b>Theft:</b>			82		41
	<b>Other Offences Against the State:</b>			141		70.5
	<b>Total No. of Crimes:</b>			<b>301</b>		<b>150.5</b>
b) Total No. of Crimes in Wellington during the 24 & 1/2 Month Pre-Strike Period:						
		1 October 1911 to 17 October 1913				
				<b>Total</b>		<b>Average per month</b>
	<b>Violent Crime:</b>			398		16.24
	<b>Theft:</b>			816		33.31
	<b>Other Offences Against the State:</b>			242		9.88
	<b>Total No. of Crimes:</b>			<b>1456</b>		<b>59.43</b>

The occupations of those accused of offences during the strike provide additional supporting evidence of a relationship between crime and protest. Those appearing before the Wellington judiciary were predominantly unskilled blue collar workers: labourers, seamen, ship's firemen, and drivers. Of 217 accused, 153 (70.51%) worked in unskilled blue collar jobs (see Tables 7 and 8). It was among these same occupations that the greatest support for the United Federation of Labour existed.<sup>49</sup> Those who went on strike in Wellington in 1913 were all unskilled manual workers except for the shipwrights: the wharf labourers, seamen, ship's firemen, drivers, and building labourers.

<sup>49</sup> Olssen, *Red Feds*, pp.xiv and 219-220. It should also be noted that the term 'judiciary', as used in this chapter, refers to the combined category of magistrates and Supreme Court judges.

The vast majority of the 94 individuals who were prosecuted for strike related offences were strikers or other unskilled workers in similar occupations. Thirty-seven of the accused have been identified as strikers, with another 38 men having occupations which indicate they may have been on strike but there is no corroborating evidence to be certain they were strikers (for example, labourer, seaman or driver). In addition, two women who were probably the wives or sisters of striking waterside workers were among the remaining accused, as was a ship's fireman who stated in court he was not on strike on the date he allegedly took part in a riot but that he was in sympathy with the strike.<sup>50</sup> As strikers and other unskilled workers were the groups most active in disturbances connected with the strike these results are not unexpected. The large proportion of strikers among the accused, however, suggests that many of these offences were committed as acts of industrial protest, either by strikers themselves or by those who sympathised with the strike. Of the latter group a significant number were probably unionists.

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<sup>50</sup> For the ship's fireman who was not on strike but was in sympathy with the strikers see **The Dominion**, 04 February 1914, p.5, col. 2 and 10 February 1914, p.9, col. 4. This accused pleaded not guilty to taking part in the Post and Telegraph Stores riot of 30 October 1913. He was acquitted at his second jury trial on 09 February 1914. The first jury had been unable to agree upon a verdict. (On the first jury trial see **The Dominion**, 04 February 1914, p.5, cols. 1-2. On the second jury trial see **The Dominion**, 10 February 1914, p.9, col. 4).

**Table 7: Occupations (Grouped by Broad Categories) of those Accused of Crimes Committed in Wellington During and in the Twenty-four and a Half Months Before the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

<b>All Accused Strike Period Crime:</b>					
Middle Class		4	1.84%		all clerks
Blue Collar		172	79.26%		incl. 8 working class leaders
Schoolboys		12	5.53%		
Other Juveniles		8	3.69%		
Unknown		21	9.68%		
<b>Total:</b>		<b>217</b>	<b>100.00%</b>		
<b>All Accused Pre-Strike Crime:</b>					
Middle Class		31	2.91%		incl. 16 clerks
Blue Collar		614	57.65%		
Schoolboys		102	9.58%		
Other Juveniles		57	5.35%		incl. 4 schoolgirls
Unknown		261	24.51%		
<b>Total:</b>		<b>1065</b>	<b>100.00%</b>		

**Table 8: Specific Occupations of those Blue Collar Workers Accused of Crimes Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

All Blue Collar Accused Strike Period Crime:			% of all blue	% of all
	no.		collar accused	accused
<b>a) Skilled Manual Workers:</b>				
engine-driver	3		1.74%	1.38%
tram conductor	2		1.16%	0.92%
tram motorman / tram driver	2		1.16%	0.92%
carpenter	2		1.16%	0.92%
1 blacksmith, 1 bootmaker, 1 fire brigade man, 1 machinist, 1 plasterer, and 1 railway ganger		6	3.49%	2.76%
<b>Total - skilled:</b>	<b>15</b>		<b>8.72%</b>	<b>6.91%</b>
<b>b) Unskilled Manual Workers:</b>				
labourer	63		36.63%	29.03%
fireman	27		15.70%	12.44%
seaman	18		10.47%	8.29%
carter / driver	9		5.23%	4.15%
prostitute	7		4.07%	3.23%
miner	3		1.74%	1.38%
wife of a waterside worker	1		0.58%	0.46%
<b>leaders of unskilled manual workers' unions and strikes:</b>				
	8		4.65%	3.69%
other: 1 barman, 2 bottlemongers / bottle-gatherers, 2 cleaners, 1 cook, 4 domestics / domestic servants, 2 hawkers, 1 hotel-porter, 1 steward, 2 storemen, and 1 waiter		17	9.88%	7.83%
<b>Total - unskilled:</b>	<b>153</b>		<b>88.95%</b>	<b>70.51%</b>
<b>c) Blue Collar but unclear whether Skilled or Unskilled Manual Workers:</b>				
	4		2.33%	1.84%
<b>Total All Blue Collar:</b>	<b>172</b>		<b>100.00%</b>	<b>79.26%</b>

**Table 9: Specific Occupations of those Blue Collar Workers Accused of Crimes Committed in Wellington During the Twenty-four and a Half Months Before the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

All Blue Collar Accused Pre-Strike Crime:			% of all blue collar accused		% of all accused
		no.			
a) Skilled Manual Workers:					
	bootmaker	12	1.95%		1.13%
	butcher	9	1.47%		0.85%
	carpenter	8	1.30%		0.75%
	tailor / tailoress	7	1.14%		0.66%
	painter	5	0.81%		0.47%
	hairstresser	5	0.81%		0.47%
	baker	4	0.65%		0.38%
3 blacksmiths, 1 boilermaker, 1 brassmoulder, 3 cab-drivers / taxi-drivers, 1 chauffeur, 3 compositors, 2 confectioners, 1 coppersmith, 1 electrician, 1 engine-driver, 1 fitter, 3 machinists, 3 mechanics, 1 milliner, 2 plumbers, 3 printers, 1 railway cadet, 1 saddler, 1 stereotyper, 2 tinsmiths, 2 umbrella-makers, 1 unspecified apprentice, 3 upholsterers, and 1 workshop foreman			42	6.84%	3.94%
Total - skilled:			92	14.98%	8.64%
b) Unskilled Manual Workers:					
	labourer	204	33.22%		19.15%
	fireman	77	12.54%		7.23%
	seaman	66	10.75%		6.20%
	domestic / domestic servant	27	4.40%		2.54%
	cook	25	4.07%		2.35%
	prostitute	24	3.91%		2.25%
	steward	17	2.77%		1.60%
	carter / driver	14	2.28%		1.31%
	hawker	8	1.30%		0.75%
	porter: hotel- ; railway-, etc.	6	0.98%		0.56%
	waiter / waitress	5	0.81%		0.47%
	gardener	5	0.81%		0.47%
	storeman	4	0.65%		0.38%
	miner	3	0.49%		0.28%
other: 1 barman, 1 bottlemonger / bottle-gatherer, 3 bushmen, 1 carpet-cleaner, 1 factory hand, 3 farm hands, 1 fisherman, 1 kitchenman, 2 scullerymen, 1 ship's boy, 1 slaughterman, and 2 trimmers			18	2.93%	1.69%
Total - unskilled:			503	81.92%	47.23%
c) Blue Collar but unclear whether Skilled or Unskilled Manual Workers:					
		19	3.09%		1.78%
Total All Blue Collar:			614	100.00%	57.65%

The following sections will analyse the nature of the link between crime and protest, and determine if the apparent link so far described is anything more than a statistical coincidence.

### **Protest Against Employers Through Crime?**

International research (as discussed in Chapter Three) indicates that criminal acts against the persons or property of their employers have been used by some strikers as forms of protest. One clear example of such an act in Wellington in 1913 was a confrontation in Mr. Falk Cohen's shop on 01 November.

#### **At the Pistol's Point - Revolver Presented in Shop**

At about ten minutes to five on Saturday afternoon three men, apparently strikers, entered the premises of Mr. Falk Cohen, clothier and mercer, of Willis Street.

"You're Mr. Cohen, ain't you?" said one of the trio.

"Yes, I'm Mr. Cohen," said the genial ex-City Councillor.

"Mr. Cohen, of the Harbour Board, ain't you?" said the speaker, embellishing his conversation with expletives.

"No, I'm not - a lot of people think I'm that Mr. Cohen."

"We know you, and we know you're on the Harbour Board!" And with that, the man drew a revolver, and presented it at Mr. Cohen.

"Now, put that away," said Mr. Cohen, now genuinely alive to the situation. "It might go off!"

"It's going to go off, you ——!" said the man, who appeared to have been drinking. "We're going to perish you!"

Mr. Cohen again explained he was not the Mr. Cohen who was a member of the Harbour Board, and sought to prove it. His words evidently had a ring of conviction, for one of the other men told the aggressor to put his revolver away, and the third one backing him up also urged the gunman to desist, and with that he replaced the revolver in his pocket.<sup>51</sup>

<sup>51</sup>

**The Dominion**, Monday 03 November 1913, p.8, cols.1-2.

The intention of the perpetrators (who were never prosecuted) was to intimidate and to vent their frustration against one of the employers who were prolonging the strike by refusing to accept the strikers' terms for a return to work. The act was misdirected, Mr. Falk Cohen, clothier and mercer, was not the Mr. Cohen who was a member of the Wellington Harbour Board, but the purpose of the confrontation is obvious.

To help determine how frequent such protests against employers through crime were in 1913 the occupation of the victims, and the relationship between the victims and accused, in prosecuted cases of violent crime, larceny, and other crimes against the State in Wellington during the strike (as displayed in Tables 10 and 11) will be examined. The possibility that the targets of protest crime included those employers whose workers were not on strike but who were perceived to be aiding the defeat of the strike will also be considered.

Only one employer whose employees went on strike in 1913 was the victim of crimes which were later prosecuted in the Wellington Magistrate's Court. The Wellington Harbour Board experienced the destruction on two separate occasions of its rapidly built and re-built eight foot high barrier near King's Wharf. The purpose of the specially constructed barrier was to limit the number of access points to King's Wharf, provide protection for those willing to handle cargo during the strike, and hinder the movement of unauthorised visitors (including crowds of angry strikers) around the wharves. Rank-and-file striking waterside workers were not pleased with such actions by the Harbour Board, and on consecutive days (24 and 25 October 1913) large groups of strikers twice demolished the barrier and threw the wood it was constructed from into the harbour.<sup>52</sup> Four individuals alleged to have taken prominent roles in this destruction of property were prosecuted. Three were striking watersiders and the fourth was a sailor who was 'newly arrived in New Zealand at strike time'. The sailor pleaded guilty, two of the watersiders

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<sup>52</sup> For newspaper descriptions of these incidents see **The Dominion**, 25 October 1913, p.6, col. 1, and 27 October 1913, p.4, col. 3; and **The Evening Post**, 25 October 1913, p.6.

**Table 10: Occupations (Grouped by Broad Categories) of the Victims of Crimes Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

All Individually Named Victims of Strike Period Crime:			
Middle Class <sup>53</sup>		27	19.29%
Blue Collar		29	20.71%
Stores and companies		10	7.14%
Government <sup>54</sup>		5	3.57%
Police		16	11.43%
Special Constable		12	8.57%
Unknown		41	29.29%
<b>Total:</b>		<b>140</b>	<b>100.00%</b>
<b>Other Incidents where the Victims were Described as Groups or were Unnamed Individuals:</b>			
Blue Collar (a fellow worker)		1	
Police: unnamed regular police		6	
Special Constable(s)		40	
Specials and Regular Police		3	
Men unloading/loading steamers <sup>55</sup>		3	
Men working on the wharves		1	
Other passengers on a train		1	
The working driver of a cart <sup>56</sup>		1	
An unnamed woman		1	
<b>Total:</b>		<b>57</b>	

<sup>53</sup> Special constables with middle class occupations are not included in the 'Middle Class' count. They have instead been counted in the special constable category in both Tables 10 and 11.

<sup>54</sup> The Government category includes (central) government departments, local government, and local government bodies. The five such victims of crimes committed during the strike were the Police Department (three separate incidents only), the Post and Telegraph Department, the Petone Railway Workshops, the Wellington City Council, and the Wellington Harbour Board.

<sup>55</sup> In two of these three incidents the men unloading or loading steamers were middle class clerks and other staff from the offices of the shipping companies.

<sup>56</sup> It is not clear whether this working driver of a cart was a permanent worker or a volunteer. If the latter, he may have been either middle class or a blue collar worker.



**Table 11: Occupations (Grouped by Broad Categories) of the Victims of Crimes Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court - Breakdown by General Type of Crime**

a) All Individually Named Victims of Strike Period Crime:									
Type of Crime		Middle Class <sup>58</sup>	Blue Collar	stores & companies	State <sup>57</sup>	Special Constables	Unknown		Total
All Violent Crime:		6	7	1	11	9	14		48
		12.50%	14.58%	2.08%	22.92%	18.75%	29.17%		100.00%
All Theft:		20	20	8	3	-	27		78
		25.64%	25.64%	10.26%	3.85%	0.00%	34.62%		100.00%
All Other Against State:		2	3	2	12	5	-		24
		8.33%	12.50%	8.33%	50.00%	20.83%	0.00%		100.00%
b) Other Incidents where the Victims were Described as Groups or were Unnamed Individuals:									
Violent Crime:									
	Special Constable(s)		8						
	Specials and Regular Police		1						
	Men unloading/loading steamers		2		who in 1 of these 2 incidents were middle class				
	Total:		11						
Theft:									
	no victims described in this way								
Other Crimes Against the State:									
	Blue Collar (a fellow worker)		1						
	Police: unnamed regular police		6						
	Special Constable(s)		36						
	Specials and Regular Police		2						
	Men unloading/loading steamers		3		who in 2 of these 3 incidents were middle class				
	Men working on the wharves		1						
	Other passengers on a train		1						
	The working driver of a cart		1		not clear if a permanent worker or a volunteer				
	An unnamed woman		1						
	Total:		52						

<sup>57</sup> The category 'State' includes individual regular policemen who were victims along with the small number (5 in all) of government departments and local government victims.

<sup>58</sup> See footnote 53 in this chapter.

were convicted by a jury, and the third watersider was found not guilty at his jury trial. The sentences imposed on the three men convicted ranged from three to seven months imprisonment.<sup>59</sup>

The demolition of the barrier was an overt act of protest by a large group of strikers against one of the employers of both casual and permanent labour on the Wellington wharves. The barrier's construction was clearly considered provocative by the strikers, and they responded with violence. The strike was less than a week old and hopes of an early settlement were still high. The Harbour Board did not attempt to rebuild the barrier until mid-November,<sup>60</sup> which suggests it realised how provocative its actions had been.

Other incidents of minor property damage or attempted property damage against the Harbour Board and some of the shipping companies who employed wharf labour were reported by Wellington newspapers, though no prosecutions followed concerning any of these events. A shipment of muriatic acid stacked on the wharves was tampered with on the night of 24/25 October, with the result that a large quantity of the acid flowed out on to the wharves and blackened everything it came in contact with.<sup>61</sup> Early in the morning of 26 October a Harbour Board patrol found a bundle of shavings and sticks of wood heaped up against one of the sheds on Glasgow Wharf,

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<sup>59</sup> For newspaper reports of the relevant hearings, trials and sentencings see **The Dominion**, 01 December 1913, p.9, col. 2; 06 December 1913, p.6, col. 8; 10 December 1913, p.6, col. 5; 04 February 1914, p.5, col. 1; 07 February 1914, p.6, col.3; and 09 February 1914, p.3, cols. 4 and 5. A warrant for the arrest of a fifth man (occupation not stated) was issued, but he was never brought before the Court. This warrant was cancelled at the request of the police on 10 December 1913 (Wellington Magistrate's Court Criminal Record Book, no. 83, December 1913 to January 1914, prosecution no. 6396).

<sup>60</sup> **The Dominion**, 18 November 1913, p.8, col. 5.

<sup>61</sup> **The Dominion**, 27 October 1913, p.4, col. 4.

ready to be lit. *The Dominion* report suggested that whoever had built the pile of kindling had been interrupted before a fire could be started.<sup>62</sup>

Each of these unprosecuted criminal actions was most likely the work of an individual acting alone or with the aid of, at most, a few other persons. The acts were covert, and committed at night or in the early morning. The purpose of the sabotage is impossible to be certain of due to the minimal evidence. The destruction of property as a form of protest against the employers of wharf labour may have been the motivation for or the intention of these incidents. Inebriated, or juvenile, mischief makers with no connection with the strike were other potential culprits. It is also possible that the Harbour Board patrols and newspaper reporters were overly suspicious in interpreting accidental damage to a shipment of acid, or coincidental gatherings of wood by a shed.

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<sup>62</sup> **The Dominion**, 27 October 1913, p.4, col. 7. **The Evening Post** reported on 27 October (p.8, col. 1) that dynamite had been found on the Wellington wharves. This report was subsequently denied by the chairman of the Harbour Board and by Captain Munro, the wharfinger (**The Evening Post**, 28 October 1913, p.8, col. 5). Three weeks later **The Evening Post** (19 November 1913, p.8, col. 5) stated that an attempt had been made to burn down the house of a Harbour Board official, but a mistake had been made by the perpetrator or perpetrators and the wrong house had been targeted. According to **The Evening Post** the ladies of a house belonging to a 'city business man, in no way connected with the strike or strikers' had found a card on a table in their home. On the card were 'the initials "I.W.W."', and a print of a hand in red. The card stated that the house would be burned down, and the name of the householder was mentioned. It was evident that a mistake had been made in the address, but the name on the card was that of a Harbour Board official living close by. Sure enough, an attempt appears to have been made to burn down the house. A fire was discovered in one room, and was confined to it, although the damage there was considerable.' The next day **The Evening Post** (20 November 1913, p.8, col. 6) retracted much of its earlier report. 'Further enquiries regarding the "Red Hand" incident reported in yesterday's Post, go to show that there is very little to connect any organisation with the matter. The suggestion that the alleged symbol was meant for a Harbour Board official is not borne out. In official circles little or no importance is attached to the incident.' This was the entire report. No mention was made if there actually had been a fire or the probable cause of any such fire.

The conclusion which can be reached from the available information is that violence against the persons or property of strikers' employers was not a widespread feature of the 1913 strike in Wellington, though, a small number of such crimes as protest against employers were committed. The intimidation of Mr. Cohen and the destruction of the wharf barrier are clear examples of protest by strikers against their employers through crime.

The property of other employers and businesses also became the target for violence when they assisted or were suspected of assisting the special constables. On the evenings of 03 and 04 November crowds surrounded the Royal Tiger Hotel in Taranaki Street. Stone-throwers amongst the crowds broke nearly every window in the hotel, with some assistance from those armed with sticks and iron bars.<sup>63</sup> The cause of the assemblies and the violence was a belief that special constables had been served in the bar of the hotel (and that they may even have been 'shouted' free drinks).<sup>64</sup> Three men and one woman were prosecuted in connection with these disturbances, all of whom were convicted. Mrs. Florence Nelson was convicted for the destruction of one window and one lamp, Archibald Campbell for taking part in a riot and for being a rogue and a vagabond in that he was found by night with an offensive weapon, Robert Hill for assaulting a regular police constable who was trying to prevent further damage to the hotel

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<sup>63</sup> **The Dominion**, 04 November 1913, p.8, cols. 3-4, and p.9, col. 8; 05 November 1913, p.7, col. 4; 19 November 1913, p.6, col. 7, and p.8, col. 8; and **The New Zealand Times**, 19 November 1913, p.7, col. 5.

<sup>64</sup> **The Dominion**, 07 February 1914, p.6, col. 3; **The New Zealand Times**, 13 November 1913, p.3, cols. 3 and 4; and Hill, **The Iron Hand in the Velvet Glove**, p.313. Margaret McIntosh, licensee of the Royal Tiger Hotel, stated during the Supreme Court trial of an alleged rioter that special constables had been served on the premises and this was why the hotel had been attacked (**The Dominion**, 07 February

by arresting a stone-thrower, and Sydney Claridge for using threatening behaviour with intent to provoke a breach of the peace towards regular mounted policemen.<sup>65</sup>

A suspicious fire inside the Stewart Timber and Hardware Company's mill in Courtenay Place on 29 October may also have been an act of protest and sabotage by a strike sympathiser. The company was manufacturing batons for the Police Department and the fire started in close proximity to where the batons were being made.<sup>66</sup> No one was prosecuted. Two weeks later another maker of batons, this time in Masterton, became the victim of strike-related protest through property damage. The word "scabs" was cut into the plate-glass windows of his furniture establishment. The purpose of the vandalism was unmistakable.<sup>67</sup>

One instance of theft from the wharves was reported by *The Dominion* on 30 October 1913. The victim of the 'wharf pillaging' was a 'well-known providore in shipping circles in Wellington'. Eight of the twelve sacks of potatoes he had stacked on Railway Wharf had disappeared, even though

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1914, p.6, col. 3). In the Magistrate's Court on 12 November 1913 McIntosh gave similar evidence (**The New Zealand Times**, 13 November 1913, p.7, cols. 3 and 4).

<sup>65</sup> **The New Zealand Times**, 13 November 1913, p.7, cols. 3-4; 19 November 1913, p.7, col. 5; and **The Dominion**, 19 November 1913, p.8, col. 8; 28 November 1913, p.9, col. 3; and 01 December 1913, p.9, col. 2. A stay of proceedings was entered concerning a second charge against Robert Hill of taking part in a riot after three juries were unable to agree on a verdict (see **The New Zealand Times**, 18 May 1914, p.8, col. 5). A charge of taking part in an unlawful assembly was withdrawn after Florence Nelson was convicted of the property damage (see **The Dominion**, 26 November 1913, p.8, col. 3). The original charge against Sydney Claridge of taking part in a riot was withdrawn because of the extenuating circumstances described on p.227 of Chapter Six.

<sup>66</sup> **The Dominion**, 30 October 1913, p.8, col. 3.

<sup>67</sup> **The Dominion**, 12 November 1913, p.9, col. 5. Also see **The Dominion**, 17 November 1913, p.8, col. 7, though in this report of comments made at a strikers' meeting the victim is described as an undertaker.

'pickets and patrol men were on duty all night' in the general vicinity.<sup>68</sup> No prosecution followed. There is insufficient information available to determine if this 'pillaging' from the wharf was in any way an act of protest, or simply a convenient opportunity for self-gain which was taken advantage of.

The only types of crime which were used as protest against employers and which resulted in more than five strike related prosecutions were desertion by crew members on commercial ships, the wilful disobedience of the lawful commands of a ship's officer, and similar offences.<sup>69</sup> On 26 November 1913 the stokehold firemen of the Union Company's S.S. Maunganui refused to continue work. They walked off their vessel in protest that they were being required to assist the defeat of the New Zealand strike. The Maunganui usually sailed between Australia and New Zealand, and its crew were signed on under Sydney articles. Due to the strike the Maunganui had been temporarily transferred to the Lyttelton-Wellington ferry service, a route normally worked by those seamen and firemen employed under New Zealand articles who were on strike. The vacancies left in the stokehold of the Maunganui by the firemen's protest were filled by Arbitrationists. The Maunganui's seamen refused to work with Arbitrationists and also came

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<sup>68</sup> **The Dominion**, 30 October 1913, p.8, col. 7.

<sup>69</sup> Desertion and similar offences are not included in the prosecution data analysed throughout the rest of this thesis (as listed in Tables 1, 2 and 3, pp.154-157). Such offences were very different to any of the other Wellington strike related prosecutions (see Tables 4 and 5, pp.160 and 161). They were usually private prosecutions by ship's officers or representatives of shipping companies, or if the police prosecuted the charges were instigated at the request of the shipping companies. The sheer number of such prosecutions, the uniformity of the occupations of the accused (seamen or firemen), and the uniformity of the sentences would also have a significant, and probably misleading, impact on the overall results for the number and types of strike related offences, the occupations of those accused of these offences, and the trends in sentencing. The specific context of the strike related

ashore.<sup>70</sup> Fifty-four of the Maunganui's crew were arrested and prosecuted for desertion. After agreeing to return to work they were each convicted and ordered to forfeit 14 days pay.<sup>71</sup>

On 27 November twenty-seven of the firemen on the S.S. Corinthic refused to continue work. They stated their grievance was that "the ship is carrying 'scab' cargo, and 'scabs' are aboard."<sup>72</sup> The firemen were arrested and were each charged with having wilfully disobeyed the lawful commands of their commanding officer. Each man was also prosecuted on a second charge of having combined with others to disobey the lawful commands of their commanding officer, to neglect duty and to impede navigation of the ship. At their court appearance on 28 November the men were given the opportunity to return to work by their employer. If they agreed to work then the company would ask the magistrate to convict the men, but not impose a punishment. Three of the firemen accepted the offer, the other twenty-four refused and were sentenced to one month's imprisonment each.<sup>73</sup>

One of the twenty-four men then asked the magistrate "May I speak, sir?" Magistrate Riddell replied "No, you can't speak. Take the defendant

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desertion and similar offences, however, warrants a discussion of them in the current section of this thesis.

<sup>70</sup> **The Dominion**, 27 November 1913, p.8, col. 5; and **The Evening Post**, 27 November 1913, p.3, col. 3. For a 'detailed and nuanced' analysis of desertion as 'an important means of resistance and protest among seamen' see Eric W. Sager, **Seafaring Labour: The Merchant Marine of Atlantic Canada, 1820-1914**, (Kingston, Montreal: McGill-Queen's University Press, 1989), as recommended by Marcus Rediker in his review of Sager's book in **Journal of Social History**, vol. 24, no. 3, Spring 1991, pp.647-649 (see particularly p.648 of the review).

<sup>71</sup> **The Dominion**, 29 November 1913, p.6, col. 8, and 08 December 1913, p.8, col. 7; and **The Evening Post**, 28 November 1913, p.8, col. 2.

<sup>72</sup> **The Dominion**, 28 November 1913, p.8, col. 4; and see p.8, col. 3.

<sup>73</sup> **The Dominion**, 29 November 1913, p.6, col. 8; and Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913, prosecution no.s 6020 to 6075.

away.”<sup>74</sup> Later the same morning Captain Hart spoke to his twenty-four former crewmen and ‘asked what the man who wished to speak in Court had to say. The man said that he wanted to know if they would be allowed to go free after serving sentence in gaol, and Captain Hart explained that at the end of the month they would be again placed on the ship, and, if they refused duty, then further Court proceedings would be taken. This rather changed the attitude of the men.’ Captain Hart also pointed out to the men that the Wellington strike leaders had not bothered to provide them with legal counsel even though the firemen had disobeyed orders at the request of the strike leaders. A few minutes later the twenty-four firemen agreed to return to their ship if their sentences were remitted.<sup>75</sup> At the afternoon sitting of the Court Magistrate Riddell agreed to the prosecution’s request to remit the penalty. The men were ordered to come up for sentence when called upon and to pay 4/- court costs each. The firemen returned to the Corinthic and the ship sailed that afternoon.<sup>76</sup>

Fifteen of the S.S. Opawa’s firemen left their vessel on 30 November in an act of sympathy with the New Zealand strikers. The Opawa sailed between London and New Zealand, and while in Wellington it had been loaded by Arbitrationists. The fifteen men were arrested and charged with having unlawfully absented themselves from the steamer. Before their court appearance on 01 December the Opawa’s captain had interviewed the men and ‘they had told him that if they were placed on board [the vessel] again

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<sup>74</sup>     **The Dominion**, 29 November 1913, p.6, col. 8.

<sup>75</sup>     **The Dominion**, 29 November 1913, p.6, col. 7.

<sup>76</sup>     **The Dominion**, 29 November 1913, p.6, cols. 7 and 8; and Wellington Magistrate’s Court Criminal Record Book, no. 82, November 1913, prosecution no.s 6020 to 6075.



they would refuse to work. They gave as their reason for this attitude the fact that what they termed "scab" cargo was in the steamer's holds.' Each accused pleaded guilty and was sentenced to fourteen days imprisonment and was ordered to be placed on board the vessel should it leave port before the expiry of the term of imprisonment.<sup>77</sup>

Later on the same day the men were put on board the *Opawa* and the vessel left for London. Once the ship was well outside the harbour limits the men were mustered on deck and asked by the captain if they still refused duty. Fourteen of the firemen replied in the affirmative. The *Opawa* returned to Wellington. The fourteen men were arrested and charged with while on the high seas combining with the other persons to disobey the lawful commands of the master of the ship, and to neglect duty and to impede the navigation of the ship and the progress of her voyage. This was a considerably more serious charge than being absent from the ship. The maximum penalty for merchant seamen combining on the high seas was twelve months in prison.<sup>78</sup> On 02 December each of the firemen pleaded not guilty and they were committed to the Supreme Court for trial.<sup>79</sup> Bail of £50 each was required, but

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<sup>77</sup> **The Dominion**, 02 December 1913, p.6, col. 4. For the date of the offence see **The Dominion**, 02 December 1913, p.6, col. 3 and Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913 to 02 December 1913, prosecution no.s 6163 to 6177. Also see **The Dominion**, 01 December 1913, p.8, col. 4. The *Opawa*'s original stokehold crew comprised twelve firemen and nine trimmers (**The Dominion**, 03 December 1913, p.8, col. 4). The term 'fireman' was usually used in newspapers of the period as a generic description for any individual who worked as a fireman or a trimmer in the stokehold of a ship. Occasionally, as above, a distinction was made between firemen and trimmers. Of the fifteen 'firemen' who had absented themselves from the *Opawa* on 30 November 1913, nine were firemen, four were trimmers, and the exact job of the fifteenth 'fireman' was not specified (**The Dominion**, 03 December 1913, p.8, col. 4 - the fifteenth man had not committed a second offence so was not mentioned in this report of the second court appearance of the *Opawa* firemen).

<sup>78</sup> **The Dominion**, 02 December 1913, p.6, col. 4.

<sup>79</sup> **The Dominion**, 03 December 1913, p.8, col. 4.

it was not until almost six weeks later that the accused were released on bail, after the bail amount had been reduced to £5.<sup>80</sup> At the next Supreme Court sitting in February 1914 the accused changed their pleas to guilty. The Chief Justice treated the firemen 'very leniently' because of the long period they had already spent waiting for bail in Wellington Prison, and because 'although they had technically been guilty, they had minimised their offence by intimating before the vessel left that they would not work.' Each fireman was sentenced to fourteen days gaol.<sup>81</sup> The vacancies in the Opawa's stokehold were filled by volunteers and the ship sailed on 03 December.<sup>82</sup>

After the second appearance of the Opawa's firemen in the Wellington Magistrate's Court on 02 December there were no further prosecutions for desertion or similar offences related to the strike.<sup>83</sup> On 06 December about twenty of the firemen on the S.S. Kia Ora attempted to leave their ship the evening before it departed for London. They rushed the gangway, but were 'beaten back' by four policemen and the officers and some of the engineers of the Kia Ora. The police then 'threatened to draw their batons if further provocation was given.' One of the firemen was particularly determined to leave the ship. He leapt from the ship's rail to the wharf (a drop of between

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<sup>80</sup> **The Dominion**, 03 December 1913, p.8, col. 4; and 03 February 1914, p.8, col. 5; and Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913 to 02 December 1913, prosecution no.s 6178 to 6191.

<sup>81</sup> **The Dominion**, 03 February 1914, p.8, col.5. Also see col.4 on the same page.

<sup>82</sup> **The Dominion**, 02 December 1913, p.6, col. 4 and 04 December 1913, p.8, col. 6. Also see **The Dominion's** editorial entitled 'Unfulfilled Predictions' (04 December 1913, p.6, cols. 5-6). **The Dominion**, 04 December 1913, p.8, col. 6, stated that 'practically all' of the Opawa's replacement firemen were farmers.

<sup>83</sup> On 05 December four seamen from the S.S. Canada Cape were prosecuted for wilful disobedience of the lawful commands of the master of their ship on 05 December. These charges appear to have had no connection with the strike. 'Mr. P. Levi, who appeared for Captain Friend', stated in court 'that the four men had flatly refused duty. There was no reason to think that their action had anything to do with the strike.' (**The Dominion**, 06 December 1913, p.14, col. 3).

eighteen and twenty feet). He landed on the wharf 'in a heap' and was taken to Hospital suffering from a broken ankle and several bruises. It is unclear, however, if the firemen were attempting to desert in sympathy with the New Zealand strikers when they rushed the gangway, or simply intended to temporarily leave the ship for a few hours in protest at their captain arbitrarily cancelling shore leave. 'The local officials of the [Shaw Savill shipping] company had been advised that certain proposals were about to be put before the firemen and trimmers, with the object of inducing them to leave their ship at the last moment, and thus prevent the Kia Ora leaving port. Realising that there would be trouble, the order went forth that all leave be stopped.' The confrontation was connected with the strike, but the actions the firemen would have taken if they had been successful in their attempt to leave the ship are uncertain. The Kia Ora left port at 5 a.m. the next morning with the 'whole' of its original crew.<sup>84</sup>

Earlier in the strike the employers of the crew of the R.M.S. Moana decided not to go through with the prosecution of the men who had walked off the ship on 07 November. Thirty-five warrants for arrest on the charge of desertion against the former seamen of the Moana were cancelled in the Wellington Magistrate's Court on 21 November, and the charges against the two crewmen who had been arrested were withdrawn.<sup>85</sup> Unlike the Corinthic, the Kia Ora, the Maunganui or the Opawa, the Moana operated on the New Zealand coastal trade and its crew were signed on under New Zealand articles.

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<sup>84</sup> **The Dominion**, 08 December 1913, p.8, col. 4.

<sup>85</sup> Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913, prosecution no.s 5914 to 5950.

In Sydney on 07 December warrants were issued for the arrest of the crew of the *Tofua*, who were under New Zealand articles, for a breach of those articles in giving twenty-four hours' notice in a foreign port.<sup>86</sup> The twenty-seven men were arrested, charged with desertion and remanded on bail.<sup>87</sup> On 11 December the Union Company withdrew the charges after the crew agreed to return to the ship and to forfeit the wages for the period of their absence from the ship.<sup>88</sup>

### **Violent Vengeance against Strike Breakers**

Violence by strikers has been a frequent response to the introduction of free labour or replacement workers during industrial disputes. Examples from Australia, Britain, France, Ireland, and the United States have been described in Chapter Three and the motivations for such actions explored. Major industrial disputes in New Zealand have resulted in similar incidents. During the 1951 waterfront lockout a new union was formed in Auckland at a meeting on 28 April. While the new unionists were leaving this meeting one of the officials of the new union (who had been a deregistered unionist) was assaulted by a deregistered unionist still loyal to the old union.<sup>89</sup> As shipping schedules were restored during the Seamen's Strike of 1922-1923 'unionists, who had earlier gathered to laugh at their queasy replacements, began to attack the "free labourers". Although the union stressed that picketing should

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<sup>86</sup> **The Evening Post**, 08 December 1913, p.8, col. 3.

<sup>87</sup> **The Dominion**, 10 December 1913, p.6, col. 4.

<sup>88</sup> **The Dominion**, 12 December 1913, p.6, col. 7.

<sup>89</sup> Young, 'The Activities and Problems of the Police in the 1951 Waterfront Dispute', pp.46-47. Also see Michael Bassett, **Confrontation '51: The 1951 Waterfront Dispute**, (Wellington: A. H. and A. W. Reed, 1972), pp.168-169 and 246 concerning the assault on 28 April, and further assaults on 30 April, 01 May, and 05 July 1951.

be peaceful, away from the police patrols there were several assaults on non-union sailors.<sup>90</sup> In Wellington in connection with the 1890 Maritime Strike seven strikers were prosecuted in the Magistrate's Court for seven separate assaults against free labourers who had replaced the strikers on the wharves.<sup>91</sup> Lyttelton "scabs" and "blacklegs" (in colloquial terms) were also the victims of assault by unionists in 1890.<sup>92</sup>

Although strike related violence in Wellington in 1913 was much more frequent than during the 1890 strike, it was rare for this violence to be directed against replacement workers. Only three assaults against strike-breakers, or those suspected of being strike-breakers by their assailants, were prosecuted in the Magistrate's Court, numerically fewer than in 1890. In a fourth assault charge the victim was a storeman who had assisted a replacement worker. Two further instances of violence directed at strike-

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<sup>90</sup> John Walsh, 'The Seamen on Strike, 1922-1923', in Pat Walsh (ed), **Trade Unions, Work and Society: The Centenary of the Arbitration System**, (Palmerston North: The Dunmore Press, 1994), p.99. Also see Walsh, pp.101-102: 'In Lyttelton unionists [not involved in the dispute] from the overseas steamer *Carpentaria*, fuelled with a keg of beer won in a football game played against striking seamen, set about the "free labour" crew of the Union Company's *Whangape* with fists, sticks and iron bars.'

<sup>91</sup> **The Evening Post**, 12 September 1890, p.2, cols. 7-8; 16 September 1890, p.3, col. 2; 18 September 1890, p.3, col. 2; 29 September 1890, p.2, col. 9; 30 September 1890, p.2, col. 9; 04 October 1890, p.2, col. 4; 07 October 1890, p.3, col.1; 06 November 1890, p.3, cols. 1-2; and 07 November 1890, p.2, cols. 4, 5 and 9. Also see **New Zealand Mail**, 03 October 1890, pp.22, cols. 4-5, p.23, col. 3, p.27, col. 4, and p.30, col. 4. For a related incident which did not lead to a prosecution see **The Evening Post**, 20 October 1890, p.3, col. 2.

<sup>92</sup> Ian Arthur Merrett, 'A Reappraisal of the 1890 Maritime Strike in New Zealand', (unpublished MA thesis, University of Canterbury, 1969), pp.176-178, and see pp.116-117. Also see Barry Thomson and Robert Neilson, **Sharing the Challenge: A Social and Pictorial History of the Christchurch Police District**, (Christchurch: J. C. Rowe and the Christchurch Police District History Book Committee, 1989), p.128.

breakers were reported in *The Dominion* for which no charges were ever laid.<sup>93</sup>

The assaults on “scabs” which were committed were of two distinct types, distinguished by the location of the violence, the type of “scabbing” the victims were involved in, and the regular occupations of the victims.

In the first week of the strike the shipping companies sent small numbers of their clerks and other office workers to the wharves to load or unload their own vessels. On 24 October around twenty men were working cargo on three separate steamers. The response of rank-and-file striking watersiders was to break through the weak points in the police cordon of the wharf entrances, rush the wharves and steamers where cargo was being handled, and persuade the “free labourers” to halt their work. On 24 October two of these attempts at persuasion resulted in violence against “free labourers” whose regular occupations were as shipping clerks. One prosecution, conviction, and sentence of one month’s imprisonment and a £50 bond to keep the peace followed, though the perpetrator of the second assault (by throwing a broken bottle which hit John Breen in the head) was never identified by the police. *The Dominion* reported a third separate violent incident on 24 October where blows were exchanged between members of the invading crowd and the “free labourers” wearing white shirts, but again no charges resulted.<sup>94</sup>

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<sup>93</sup> The relevant reports for the non-prosecuted assaults are **The Dominion**, 25 October 1913, p.5, col. 8; 29 November 1913, p.6, col. 5; and 06 December 1913, p.6, col. 7. These incidents are described briefly on the current page of this chapter.

<sup>94</sup> For reports of the wharf rushes on 24 October and the resulting violence against free labourers see **The Dominion**, 25 October 1913, p.5, cols. 7-8, and p.6, cols. 2-3; 29 November 1913, p.6, col. 5; and 06 December 1913, p.6, col. 7; and **The Evening Post**, 24 October 1913, p.8, col. 3. Both **The Dominion** and **The Evening**

A second conviction for assault by a striker against a shipping clerk arose from the efforts of crowds of strikers on 24 October to prevent any free labouring on the wharves. In this case the victimised clerk was not working cargo, and had simply been out in the harbour in a launch. The motivation for the assault was the same as the other assaults on 24 October, though the selection of the target was less accurate. The assailant was sent to gaol for six weeks with no option of a fine.<sup>95</sup>

In each of the assaults against strike-breakers or those suspected of free labouring during the first week of the strike the location of the violence was on the wharves, the type of scabbing was the loading or unloading of cargo from steamers, and the victims were almost always clerks. Assaults against "scabs" later in the strike had none of these characteristics.

The success of the rank-and-file strikers on 24 and 25 October 1913 in preventing work on the wharves through sheer numbers, intimidation and a small number of acts of violence would lay the basis for the eventual defeat of the strike. The disorder on the wharves on these two days provided the Government with the justification and public support to issue a call for special constables to protect the peace, guard the wharves and guard those willing to act as strike-breakers.<sup>96</sup> On 04 November more than 1,000 mounted specials and some 500 foot specials were available for duty.<sup>97</sup> By the time a new

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Post use the term "free labourers" when describing these incidents. For a report of the related prosecution for assault see **The Dominion**, 03 December 1913, p.9, col. 1.

<sup>95</sup> **The Dominion**, 22 November 1913, p.6, col. 8 and p.7, col. 1.

<sup>96</sup> Hill, **The Iron Hand in the Velvet Glove**, p.305.

<sup>97</sup> Olssen, **Red Feds**, p.184. The 01 November issue of **The Dominion** (p.6, col. 8) reported that 'well over 1000 persons' had so far been enrolled as special constables, and that 'applications for enrolment will still be received'. Also see Hill, **The Iron Hand in the Velvet Glove**, pp.308, 310 and 313. For studies of the regular occupations of those who enrolled as special constables in Christchurch see Moffat,

Arbitration union of waterside workers was registered on 06 November 1913 the wharves were effectively sealed from incursions by strikers, unless the strikers were willing to use serious violence with the very real possibility of severe injuries and fatalities.<sup>98</sup>

The cordon of hundreds of special constables, many mounted, around the wharves made confrontations with strike-breaking wharf labourers while they were at work on the wharves almost impossible. The risks and effort needed were too high. The opportunity for hostile encounters away from the wharves was also severely limited. Until early December the majority of the Arbitration watersiders ate and slept on the wharves, or on steamers tied up at the wharves or at anchor in the harbour.<sup>99</sup> These factors help to explain

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‘“Let all Hands Wade in with Batons”’, especially pp.64-93; and Rachel Barrowman, ‘Who Were Massey’s Cossacks?: The Social Composition of Special Constables Enlisted during the 1913 General Strike (A Study of Class Conflict)’, (unpublished HIST 316 research essay, Victoria University of Wellington, 1983). Detailed studies of the regular occupations of the Wellington special constables have not yet been conducted.

<sup>98</sup> For descriptions of the regular and special police presence protecting the waterfront and the Arbitrationists see **The Dominion**, 07 November 1913, p.8, col. 4; 08 November 1913, p.6, col. 5; and 10 November 1913, p.8, col. 2.

<sup>99</sup> **The Dominion**, 07 November 1913, p.8, col. 4; 08 November 1913, p.7, col.6; 19 November 1913, p.8, col. 5; 20 November 1913, p.8, col. 6 and p.9, col. 3; 24 November 1913, p.6, col. 5; 25 November 1913, p.8, col. 4; 29 November 1913, p.6, col. 3; 02 December 1913, p.6, col. 5; 04 December 1913, p.8, col. 6; and 22 December 1913, p.6, col. 1; and **The Evening Post**, 14 November 1913, p.7, col. 9; 19 November 1913, p.8, col. 6; and 20 November 1913, p.8, col. 6. As late as 02 December there were still about 800 Arbitrationists being accommodated on the wharves (**The Dominion**, 04 December 1913, p.8, col. 6). The number of Arbitrationists available for wharf labour on 02 December was about 1350. (The nominal total on the Arbitration Union’s membership roll was 1751, with about 200 of those on the roll at sea manning ships and another 200 having returned to their homes in the country. See **The Dominion**, 02 December 1913, p.6, col. 5, and 03 December 1913, p.8, col. 5). A week later the Employers, Farmers, and Citizens’ Defence Committee reported that they were providing accommodation on the waterfront for 400 Arbitrationists (**The Evening Post**, 10 December 1913, p.8, col. 3). The provision of wharf and houseboat accommodation for the Arbitrationist wharf



the rather surprising feature of prosecutions in the Wellington Magistrate's Court, that no Arbitrationist watersiders appeared as the victims of violent crime during the strike. The most serious offences against Arbitrationist watersiders brought to the court's attention were a few instances of verbal abuse and obscene language.<sup>100</sup>

With the resumption of work on the wharves a different group of strike-breakers, carters and drivers, became viable targets for the expression of frustration, and occasionally for violence. On 11 November the Wellington Drivers' Union responded to the United Federation of Labour's call for a general strike in Wellington.<sup>101</sup> From the outset there were non-union drivers and other volunteers willing to transport the "black" cargo handled by the Arbitration watersiders, as well as former unionists who left the striking union and formed their own separate Arbitration drivers' union.<sup>102</sup> These strike-breakers could not stay behind the protective cordon of special constables at the wharves, they had to deliver the cargo throughout the city, and this made

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labourers only ended on 23 December, after the strike had been called off (*The Dominion*, 22 December 1913, p.6, col. 1).

<sup>100</sup> See *The Dominion*, 15 November 1913, p.6, col. 8; and *The New Zealand Times*, 08 December 1913, p.8, col. 4. Other incidents against Arbitrationists (including strikers who had returned to work) were reported by the newspapers, but no prosecutions followed. For examples see *The Evening Post*, 07 November 1913, p.8, col. 1 (Arbitrationists working in the hold of the steamer Willochra were pelted with coal by members of the ship's crew); and *The Dominion*, 04 December 1913, p.8, col. 3 (intimidation by strike pickets towards the wife of a striker who had returned to work, though it is not clear if the ex-striker was a wharf labourer or a driver).

<sup>101</sup> *The Dominion*, 11 November 1913, p.6, col. 6 and p.9, col. 8

<sup>102</sup> See *The Dominion*, 13 November 1913, p.8, col. 3; 14 November 1913, p.9, col. 5; 15 November 1913, p.6, col. 7; 17 November 1913, p.8, col. 5; 18 November 1913, p.9, col. 1; 20 November 1913, p.8, col. 7; 24 November 1913, p.6, col. 3; 25 November 1913, p.8, cols. 3 and 5; 28 November 1913, p.8, col. 3; and 04 December 1913, p.8, col. 3; *The Evening Post*, 18 November 1913, p.8, cols. 2 and 7; 19 November 1913, p.8, cols. 2, 5 and 7; 20 November 1913, p.8, cols. 1 and 6; and 27 November 1913, p.8, col. 3; and *New Zealand Truth*, 15 November 1913, p.6, col. 5 (2nd version of this issue on the microfilm).

them vulnerable to being stopped by strikers and others who wished to “persuade” them to cease work.<sup>103</sup>

Sometimes these exchanges between those who supported the strike and those whose work was defeating the strike became violent. One charge of assault against a working driver was heard in the Magistrate's Court (a sentence of one month's imprisonment being imposed), and a storeman who assisted an amateur driver to back a horse up to a platform on 24 November was the victim in a separate assault case. The first assault prosecution was the outcome of a crowd of strikers and their sympathisers stopping and interfering with a working driver, his horse and cart on 19 November. The second assault was by a striking driver acting alone.<sup>104</sup> On at least one other occasion (again on 19 November) violence arising from a confrontation between a crowd and a working driver was averted by the arrival of a squad of mounted special constables, and no charges were laid.<sup>105</sup>

One further prosecution was related to the expression of hostility by strikers against “scabbing” drivers: a conviction for the use of insulting words with intent to provoke a breach of the peace on 19 November. The accused

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<sup>103</sup> John Crawford, ‘Overt and Covert Military Involvement in the 1890 Maritime Strike and 1913 Waterfront Strike in New Zealand’, **Labour History**, no. 60, May 1991, p.77, commented that mounted special constables were used to escort carters who were breaking the strike. Also see **The Dominion**, 26 November 1913, p.8, col. 5. It is apparent from the prosecutions and other newspaper reports of similar incidents discussed below that escorts were not provided for all carters all of the time. Also see **The Evening Post**, 20 November 1913, p.8, cols. 1, 2 and 3.

<sup>104</sup> **The Dominion**, 20 November 1913, p.8, col. 5; 21 November 1913, p.8, col.8; 08 December 1913, p.8, col. 5; and 09 December 1913, p.8, col. 8. Also see **The Otago Daily Times**, 01 December 1913, Summary For Europe, p.2, col. 6.

<sup>105</sup> **The Dominion**, 20 November 1913, p.8, col. 4.

was a striking waterside worker, and this incident was separate from the two disturbances on the same date already described.<sup>106</sup>

The enrolment of the special constables and their presence guarding the wharves changed a number of the characteristics of violent offences against strike-breakers. In each of the prosecuted assaults against strike-breakers or those who assisted them from 01 November to 20 December the location of the violence was on the streets of Wellington (usually some distance from the wharves), the type of scabbing was the transportation of cargo to or from the wharves, and the victims were working drivers or other blue collar workers who aided the scabs. One aspect of the assaults remained the same: the offenders were strikers or sympathisers with the strike.

Assaults against replacement workers (whether defined as free labourers, Arbitration unionists, or the office workers of shipping companies unloading their own goods) were a more significant feature of court proceedings in South Island ports and at Sydney in 1913 than in Wellington. Reports of violence against strike-breakers and subsequent criminal proceedings formed a large proportion of all press reports published in *The Dominion* concerning strike-related crimes and court cases in Lyttelton, Dunedin and Sydney.<sup>107</sup> Each of these areas did not experience the frequent confrontations between supporters of the strike and special constables which

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<sup>106</sup> **The Dominion**, 20 November 1913, p.8, col. 5; 21 November 1913, p.8, col.8; and 22 November 1913, p.7, col. 1.

<sup>107</sup> For examples see **The Dominion**, 10 November 1913, p.7, col. 6 (Dunedin); 22 November 1913, p.7, col. 4 (Lyttelton); 24 November 1913, p.6, col. 8 and p.7, col. 1 (Lyttelton); 25 November 1913, p.8, col. 7 (Dunedin); 02 December 1913, p.6, col. 7 (Dunedin); 17 December 1913, p.8, col. 3 (Sydney); and 18 December 1913, p.6, col. 6 (Sydney).

kept the courts busy in both Wellington and Auckland, and this is reflected in the strike-related crime and court reports.

Incidents such as William John Newman, a striker, using obscene language and striking William Miller, an Arbitrationist, on one of Dunedin's tramcars were more representative of overall strike-related crime and prosecution patterns in Dunedin, Lyttelton, Christchurch and Sydney than in Wellington or Auckland.<sup>108</sup> At Blackball an attempt was even made to burn down the home of the secretary of the new Arbitration miners union.<sup>109</sup> More research is needed to determine the precise numbers and seriousness of criminal incidents against strike-breakers in each of these regions (excluding Wellington).

In Wellington, reports of insulting language and violence against Arbitrationist watersiders became more frequent after the strike was defeated than during it. With ex-strikers and Arbitrationists working together on the wharves there was the opportunity for direct confrontations and conflict, opportunities which had been extremely limited while the strike was still in progress. For example, James Wallace, an ex-striker who had resumed work on the wharves on 23 December 1913, was imprisoned for fourteen days for setting upon, knocking down, and kicking an elderly Arbitrationist wharf labourer on 23 December.<sup>110</sup> Two weeks later a confrontation on King's

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<sup>108</sup> **The Dominion**, 17 December 1913, p.8, col. 1. For reports of similar assaults see **The Otago Daily Times**, 13 December 1913, p.10, col. 4. For reports of other types of offences by strikers against strike-breakers see **The Dominion**, 01 December 1913, p.8, col. 8; and 02 December 1913, p.6, col. 7; and **The Otago Daily Times**, 12 December 1913, p.6, col. 2.

<sup>109</sup> **The Dominion**, 29 December 1913, p.5, col. 1. The Blackball miners did not end their strike until the first week of January 1914 (Roth, **Trade Unions**, p.39).

<sup>110</sup> **The Evening Post**, 24 December 1913, p.7, col. 2. The victim of this assault had been a striking watersider but had returned to work while the strike was still in

Wharf between groups of ex-strikers and Arbitrationists resulted in allegations of insulting language, threatening behaviour and assault.<sup>111</sup> Relatively few criminal charges were laid concerning such incidents.<sup>112</sup> Difficulty in identifying perpetrators and obtaining sufficient evidence hindered prosecution, as *The Dominion* noted with regret on 06 January 1914.<sup>113</sup> The employers of wharf labour also preferred to take immediate action in connection with relatively minor incidents rather than refer the matters to the police. Those who were caught using verbal abuse towards Arbitrationists (often involving the word "scab") were dismissed from their work assignments for the day.<sup>114</sup>

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progress. The accused was also convicted of using insulting language with intent to provoke a breach of the peace concerning the same assault.

<sup>111</sup> **The Dominion**, 27 January 1914, p.9, cols. 4-5. The date of the disturbance was 09 January 1914. After the defeat of the 1922-1923 New Zealand Seamen's Strike similar types of intimidation and harassment were used by ex-strikers against those strike-breakers who continued to work. For a useful analysis of these incidents see Walsh, 'The Seamen on Strike, 1922-1923', pp.106-107; and also see p.102. The secretary of the (Arbitrationist) Timaru Wharf Labourers' Union was also the victim of obscene language, assault and intimidation in the months following the defeat of the Timaru watersiders strike of May to June 1913 (see the police file on the secretary's complaint to the Minister of Justice concerning the leniency of the Timaru magistrate against those who had committed offences against him - in 1913 Strike - Prosecution File - Archives New Zealand - AAAC, W3539 / 52f).

<sup>112</sup> For examples of prosecutions see footnotes 110 and 111 above, and **The Dominion**, 31 January 1914, p.14, col. 2; and 10 February 1914, p.11, col. 5. For examples of post-strike insulting language and violence which did not result in prosecutions see **The Dominion**, 01 January 1914, p.4, col. 8; 05 January 1914, p.6, col. 4; 06 January 1914, p.7, col. 3; 07 January 1914, p.6, col. 2; and 09 February 1914, p.8, cols. 2-3.

<sup>113</sup> **The Dominion**, 06 January 1914, p.7, col. 3. Also see the memorandum from the Commissioner of Police to The Hon. Minister of Justice dated 04 March 1914 concerning an Arbitrationist wharf worker having been struck by a piece of coal (in 1913 Strike - Prosecution File - Archives New Zealand - AAAC, W3539 / 52f). The Commissioner concluded: 'In the circumstances no action can be taken against any person owing to lack of evidence, but no doubt the fact that the police have made enquiries in the matter will make evil disposed persons more cautious in future.'

<sup>114</sup> **The Dominion**, 01 January 1914, p.4, cols.4-5; and 06 January 1914, p.7, col.3.

There is some evidence that post-strike retribution against Arbitrationists may also have been enacted through theft. To reward those who had joined the Arbitration union by 08 December 1913 these watersiders were given a right of preference in obtaining any available casual work. The proof of preference was a badge.<sup>115</sup> In January 1914 a number of Arbitrationists had their preference badges stolen.<sup>116</sup> The thief or thieves may have been motivated by an interest in gaining preference in employment. It also seems plausible that at least some of these thefts were acts of revenge. There was continuing overt hostility between ex-strikers and Arbitrationists. Most of those who did not have preference badges were ex-strikers, very few of whom would have wanted their fellow workers to consider them to be "scabs". In addition, the theft of the badges was an effective "punishment" of the Arbitrationist victims, due to the Arbitration union policy of not replacing badges which were lost or otherwise disappeared.<sup>117</sup>

### **Protest Against the State through Crime**

Sergt. M'Glone gave evidence as to the riot at the Post and Telegraph Stores, Waterloo Quay, on October 30. He said that a mob of about one thousand had rushed along from Post Office Square, and broke down about half a chain of the fence round the yard in which special constables and their horses were stationed. Many of the mob were armed with stones and pieces of wood, and he saw four men with revolvers. Before the crowd got to the horses the special men mounted and galloped away in a shower of missiles.

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<sup>115</sup> **The Evening Post**, 06 December 1913, p.6, col. 3; **The New Zealand Times**, 09 December 1913, p.5, col. 7; **The Dominion**, 06 December 1913, p.6, col. 3 and p.7, col. 2; 18 December 1913, p.6, col. 3; 23 December 1913, p.6, col. 1; and 24 December 1913, p.6, cols. 1 and 6.

<sup>116</sup> **The Dominion**, 16 January 1914, p.8, col. 2.

<sup>117</sup> Concerning the non-replacement of preference badges see **The Dominion**, 16 January 1914, p.8, col. 2.

Vile epithets were called out after them. Several police were injured in the affair.

Evidence given by Police Sergeant McGlone on 05 December 1913 in support of the application for sureties of the peace against Robert Semple <sup>118</sup>

Employers and strike-breakers were not the only potential target for expressions of working class (and especially unionist) hostility during the strike. The State, through its governing bodies and the enforcers of its laws, the police and the military, was also perceived to be aiding the employers of the striking waterfront workers.

The most publicly visible aspect of the State's intervention, in what was in basis an industrial dispute, was the recruitment of special constables, the conferment upon them of legal authority to use force and make arrests, and their use in often violent and confrontational roles. Nearly 2000 special constables were enrolled in Wellington. Their official role was to protect civil order by preventing or controlling disturbances by strikers and their sympathisers. The special constables also guarded the waterfront alongside the regular police. Their presence and actions aided the defeat of the strike by allowing cargo handling to resume on the wharves.<sup>119</sup>

The response of strikers in Australia, Britain, France, Ireland, Italy and the United States to similar State intervention has often been violent (as discussed in Chapter Three). Wellington strikers and their sympathisers also used violence and crime as protest against the State's actions in 1913.

Violence against regular police and special constables formed the majority of all strike related violence against the person prosecutions in

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<sup>118</sup> **The Dominion**, 06 December 1913, p.6, col. 5.

Wellington (25 out of 39 cases - 64.10%), and nearly half of all such strike period offences (26 of 61 - 42.62%).<sup>120</sup> When rioting and unlawful assembly charges are added to the violence against the person prosecutions the proportions rise to 74.63 per cent for strike related offences (50 out of 67 cases) and 57.30 per cent for all strike period violence against the person (51 of 89).<sup>121</sup> The frequency of violence against law enforcers was substantially greater than in the two years before the strike, as was their proportion of all victims of violence against the person. Between 01 October 1911 and 17 October 1913 only twelve assaults against police constables were prosecuted, constituting 6.35% of all (189) assault prosecutions; compared to nineteen assaults out of 40 (47.50%) in the strike period.<sup>122</sup>

Special constables were the victims in four-fifths of the strike related violence against the person directed at the enforcers of the law (40 out of 50 cases - 80%) and 44.94% of all strike period violence against the person (40 of 89).<sup>123</sup> Stone throwing was the prevalent type of violence inflicted upon the specials. Other violent acts ranged from the throwing of a mug of beer to the

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<sup>119</sup> See Hill, **The Iron Hand in the Velvet Glove**, pp.305-314, 320-321 and 322. Also see pp.189-190 in the current thesis; and **The Dominion**, 12 February 1914, p.6, col. 1 (statement by the prosecutor during a Supreme Court trial related to the strike).

<sup>120</sup> See Tables 4 (p.160) and 5 (p.161) for the breakdown of the specific strike related charges and Tables 1 (p.154) and 3 (pp.156-157) for the strike period charges.

<sup>121</sup> In 28 of the 30 riot or unlawful assembly charges the victims were persons, in the two remaining charges the target was property (in both instances the Royal Tiger Hotel). No information on the victims in these cases is provided by the Criminal Record Books but their identity has been found from the newspaper reports of the disturbances, arrests, hearings and trials.

<sup>122</sup> Common assault was the only violence against the person charge with policemen as victims prosecuted in the two year pre-strike period. No special constables were the victims of violence before the strike. Excluding private prosecutions the police were the victims in twelve of 101 (11.88%) prosecuted assaults, compared with nineteen assaults out of 36 (52.78%) during the strike.



intention to do grievous bodily harm with a firearm.<sup>124</sup> Most of the charges (25 of 40 - 62.50%) arose from the "riots" of 29 October, 30 October (two separate riots) and 05 November. These four riots were a direct response to, and acts of protest against, the presence of the specials in Wellington.<sup>125</sup> Eight further charges concerned violence against specials as they were returning to their barracks in Mount Cook after a day of guarding the waterfront, or against the small groups of specials patrolling the public thoroughfares bordering on the waterfront.<sup>126</sup>

Special constables were also frequent targets for insulting or obscene language and threatening behaviour. Seventeen of the 34 (50%) strike-related prosecutions for obscene language or insulting words with intent to provoke a breach of the peace were for insults directed at specials, as were four of the six charges (66.67%) concerning strike related threatening behaviour which did not lead to violence.<sup>127</sup> Ten of these seventeen language offences involved the use of the term "scab", in insults such as "You

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<sup>123</sup> In two of these cases the victims were a mixture of regular police and special constables. For a breakdown of all offences against special constables see Appendix 5, section a) Crimes Against Special Constables.

<sup>124</sup> See **The Dominion**, 18 November 1913, p.9, col. 3 concerning the mug of beer case; and 27 November 1913, p.9, col. 2 and 05 February 1914, p.9, cols.5-6 with regard to the firearm charge.

<sup>125</sup> For a valuable analysis of these riots and their causes see Hill, **The Iron Hand in the Velvet Glove**, pp.308-314 and 320. Also see the relevant newspaper reports. **The Dominion**, 06 November 1913, p.8, col. 3, for example, notes the strong resentment of the crowd of strikers and others in Featherston Street to the appearance of the special constables in the streets of Wellington the previous afternoon.

<sup>126</sup> For examples see **The Dominion**, 08 November 1913, p.6, col. 5; 20 November 1913, p.8, col. 4 and p.9, cols. 5-6; 21 November 1913, p.8, col. 8 to p.9, col. 1; 05 December 1913, p.8, col. 3; and 10 December 1913, p.6, col. 5.

<sup>127</sup> Threatening behaviour and threatening behaviour with intent to provoke a breach of the peace (as listed above and in Tables 3 and 5) are considered to be different types of offences than threatening behaviour whereby a breach of the peace was occasioned (i.e. where violence actually resulted from the provocation). Those

dirty scab” and “You are a b\*\*\*\*\* lot of scabs, and not men.” Expletives were often used in conjunction with the word “scab”, but not in every case.<sup>128</sup> As with the stone throwing and other violence the use of “scab”, other derogatory phrases, and threatening behaviour were overt acts of protest against the presence of the special constables in Wellington and their role in aiding the defeat of the strike.<sup>129</sup>

Strike related offences against the regular police were relatively uncommon. The combined total of prosecutions for violence against the person (twelve), offensive language (three) and threatening behaviour (two) directed at the regular police was seventeen charges, compared to 61 for the equivalent offences against special constables.<sup>130</sup>

The strike related violence which involved the regular police as victims usually arose from their efforts to protect special constables from violent attacks (e.g. the Post and Telegraph Stores riot and the Whitcombe and Tombs bookshop riot), or protect those who had aided the special constables and incurred the wrath of those hostile to the specials (e.g. the Royal Tiger Hotel riots). The throwing of stones, hunks of iron and other missiles (similar

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incidents where violence did occur are included in the violent crimes category in this thesis (see Tables 1 and 4).

<sup>128</sup> Special constables were the victims in a large proportion (45.45% - 10 of 22) of all prosecutions involving the term “scab”.

<sup>129</sup> For examples of similar incidents in other New Zealand ports see **The Dominion**, 14 November 1913, p.6, col. 7 (Auckland); 27 November 1913, p.8, col. 8 (Auckland); and **The Evening Post**, 28 November 1913, p.8, col. 5 (Christchurch). In at least one additional Auckland case one of those convicted for insulting specials was a union official (see **The Dominion**, 26 November 1913, p.9, col. 2).

<sup>130</sup> The two totals above both include the two riot charges where both regular police and special constables were the victims.

to that described by Sergeant McGlone and quoted on pp.196-197) was the most frequent type of violence inflicted upon the regular police.<sup>131</sup>

The prevalence of the specials among the victims of prosecuted violence is not surprising, nor is the context and relative infrequency of offences against the permanent police. The presence of the specials was widely resented among strikers and their sympathisers. In contrast, the regular police were perceived by the strike leaders and many of the rank-and-file strikers as potential allies. The majority of the rank and file police came from blue collar backgrounds and earlier in 1913 an attempt to form a police union had been repressed by Police Commissioner Cullen and Minister of Justice Herdman through the use of 'punishment' transferrals and forced resignations.<sup>132</sup> Speakers at strike meetings repeatedly urged strikers not to molest or interfere with the regular police.<sup>133</sup> This advice did not extend to the

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<sup>131</sup> For examples see **The Dominion**, 05 November 1913, p.7, col. 4; 06 November 1913, p.8, cols. 5 and 6; 13 November 1913, p.8, col. 6; 18 November 1913, p.9, col. 2; 28 November 1913, p.9, col. 4; 05 February 1914, p.9, cols. 4-5; and 07 February 1914, p.6, col. 3. Concerning the Whitcombe and Tombs riot especially see **The Evening Post**, 31 October 1913, p.7, cols. 8-9; and **The Dominion**, 29 November 1913, p.6, col. 5.

<sup>132</sup> Hill, **The Iron Hand in the Velvet Glove**, pp.296-303 and 320-321. For the previous occupations of police recruits also see 'The Police Force of the Dominion (Annual Report On)' in the **Appendix to the Journals of the House of Representatives of New Zealand** (henceforth AJHR): 1911, H-16, p.6; 1912, H-16, p.5; 1913, H-16, p.5; 1914, H-16, p.5. For example, included among the 324 men taken on throughout New Zealand from 01 April 1910 to 31 March 1914 were 102 ex-constables, 72 labourers, 31 farm labourers, 12 blacksmiths, and 9 miners (figures compiled from yearly recruitment numbers published in **AJHR**, 1911-1914, H-16, pages as above). For further evidence of the strike leaders trying to gain the sympathy of the regular police see the two references provided by Olssen, **Red Feds**, p.266, note 50.

<sup>133</sup> For examples see **The Evening Post**, 27 October 1913, p.3, cols. 4-5; and 31 October 1913, p.8, col. 1; and **The Dominion**, 03 November 1913, p.9, col. 5. Another reason for avoiding confrontations with the police was expressed by E. E. Canham, president of the Auckland Waterside Workers' Union. On 29 October, in Post Office Square, Canham called on the Wellington strikers 'not to come into

specials, as the chair of the strikers' meetings made clear on 02 November: ' "Anyone who interfered with the duties of the permanent police is helping to defeat the waterside workers", said Mr. Bailey. "The permanent police only", he added, and the crowd laughed.'<sup>134</sup>

Rank-and-file strikers usually heeded their leaders' words. Strike pickets helped rescue one foot policeman from the mob during the Whitcombe and Tombs riot on 30 October, and held back a crowd while regular constables struggled with two drunken seamen who were resisting arrest in Post Office Square on 27 October.<sup>135</sup> On 04 November a crowd initiated a vigorous fusillade of stones against the Royal Tiger Hotel about 7.30 p.m. 'The police, including two mounted men, now arrived on the scene. The mounted men were subjected to a short fire of stones, but the majority of the mob quickly suppressed this. "We don't want to stone our own constables", was the cry.'<sup>136</sup> That strikers and their allies during the Featherston Street riot on 05 November openly shouted 'Leave the blue police alone, go for the specials' was commented on by Colonel Heard, commander of the New Zealand Military Forces during the strike.<sup>137</sup>

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conflict with the police. Not that he had any respect for law and order, but because he did not want to see a repetition of the fatal affair at Waihi' of November 1912. (**The Evening Post**, 29 October 1913, p.8, cols. 2-3. The quote is from col. 3).

<sup>134</sup> **The Dominion**, 03 November 1913, p.8, col. 8.

<sup>135</sup> **The Evening Post**, 31 October 1913, p.7, col. 9; and **The Dominion**, 28 October 1913, p.8, cols. 1-2, and 29 October 1913, p.5, col. 5. In the disturbance on 27 October neither of the troublesome seamen were in any way connected with the strike.

<sup>136</sup> **The Dominion**, 05 November 1913, p.7, col. 4.

<sup>137</sup> Hill, **The Iron Hand in the Velvet Glove**, p.321. For further evidence of the general lack of hostility and violence towards the regular police, especially in comparison with that towards the special constables, see the references in Crawford, 'Overt and Covert Military Involvement', p.80, footnote 110 (though there appears to be a printing error in the main text related to this footnote). For an example of strikers

Those accused of strike related violence and language offences against special constables and the regular police were predominantly strikers or sympathisers with unskilled blue collar jobs. Of the 52 men and one woman prosecuted for such charges twenty-one (39.62%) are identifiable as strikers (nineteen striking watersiders, one seaman on strike, and one wife of a striking watersider). Another nineteen individuals (35.85%) had occupations which suggests they may have been strikers, but insufficient evidence has been found to determine whether or not they actually were strikers (seven labourers, eight seamen, two firemen, and two drivers).<sup>138</sup> Among the remainder of the accused were six skilled workers and one clerk.<sup>139</sup> Only two accused (one tram motorman and one non-striking driver) are known to have stated in court that they were not in sympathy with the strike.<sup>140</sup>

The occupations and roles in the strike of those prosecuted for offences against special constables followed the overall pattern described

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in Christchurch cheering the regular police see **The Dominion**, 26 November 1913, p.9, col. 3.

<sup>138</sup> The source of the occupations of these seven labourers was the **New Zealand Police Gazette**, which extremely rarely distinguishes in its entries between labourers and wharf labourers. Of all accused studied in this thesis for offences between 1911 and 1913 only four are identified as wharf labourers in the **Police Gazette**, though it is known from newspaper reports that at least 30 were watersiders. Most (twenty) of these other accused are described in the **Police Gazette** as labourers.

<sup>139</sup> For a complete listing of the occupations and role in the strike of the 53 accused see Appendix 6.

<sup>140</sup> **The Dominion**, 13 November 1913, p.8, col. 6; 16 December 1913, p.6, col.4; 07 February 1914, p.6, col. 3; and **New Zealand Police Gazette**, 1913, p.752. The attitude of the accused to the strike is rarely stated in the newspaper court reports. **The Dominion** only mentions sympathy or lack of in three cases (the two described above, and concerning a non-striking seaman who commented he was sympathetic towards the strikers: 10 February 1914, p.9, col. 4 and 17 November 1913, p.8, col. 3). The description "striker" appears to have been sufficient when needed. Each of the not in sympathy with the strike statements were presented as part of the accused's defence, and it would seem logical for most (if not all) of those who could use this defence to have used it. Given the unusual and unexpected nature of a lack of support

above almost exactly (as can be seen in Appendix 6b). In the strike related cases with regular police as the victims the absence of any skilled workers among the accused is noticeable (see Appendix 6c). The significance, if any, of this difference is unknown.

Prosecutions for offences against the authority of the state were a prominent feature of the court cases arising from the strike. Eight strike leaders were brought before the Wellington courts in relation to statements they made during public speeches to strikers. Robert Semple was charged with inciting persons to resist constables for his comments on 01 November (two days before the alleged attempted murder of Police Commissioner Cullen):

Cullen is sheltering in an office, and will not be seen leading the men. I hope that there is no shooting, but if any is done, and Cullen will come out, I undertake to shoot him first.<sup>141</sup>

George Bailey was prosecuted for inciting persons to commit a breach of the peace for using on 29 October the following words concerning the grooms attending the horses of the mounted constables: "Any persons who know the grooms should try to induce them to cease work. You could drop a few matches or indulge in a little sabotage which is the latest method of industrial warfare."<sup>142</sup> The authorities deemed such comments to be inflammatory, and

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for the strike it would seem likely that all (or nearly all) such comments would be reported.

<sup>141</sup> The official wording of the charge as reported in *The Dominion*, 20 November 1913, p.9, col. 4.

<sup>142</sup> The official wording of the charge as reported in *The Dominion*, 20 November 1913, p.9, col. 4. The other strike leaders prosecuted in Wellington in November 1913 were Thomas Barker, Peter Fraser, Harry Holland, and William Thomas Young. In mid-December 1913 Hubert Armstrong and Edward Hunter appeared before the Wellington Magistrate's Court. None of the eight strike leaders

therefore unacceptable during a period of disorder and heightened social tension.<sup>143</sup> In all seventeen charges were laid for seditious utterances, or inciting violence, disorder and other illegal acts (see Appendix 5, section d).

The extent to which most of the orators intended their speeches to be inflammatory was probably low. The problematic speeches were more acts of verbal protest and defiance against the actions and attitude of the Reform Government, and fiery rhetoric to hearten and entertain the strikers, than a call for revolution. The strike leaders knew that actual violence would only harm the strikers' cause and lose the public sympathy and support which was needed for a successful resolution of the dispute.<sup>144</sup> In addition, Erik Olssen has argued that the leaders of the United Federation of Labour (William Thomas Young and Pat Hickey) were extremely concerned in late October 1913 over their lack of control 'over the obstreperous wharfies, whose confidence was unbounded. In order to retain some influence their rhetoric became more fiery.'<sup>145</sup> A number of the more ardent Socialists among the

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were charged with any offence which was not connected with speeches they had made to strikers.

<sup>143</sup> See **The Dominion**, 05 December 1913, p.8, cols. 4-5; 06 December 1913, p.6, cols. 4-6; 12 February 1914, p.6, col. 1; and 13 February 1914, p.4, cols. 1-2.

<sup>144</sup> See **The Evening Post**, 31 October 1913, p.8, col. 1; and **The Dominion**, 29 November 1913, p.6, col. 7. Also see **The Dominion**, 12 February 1914, p.6, cols.1-2 (Edward Hunter's first Supreme Court trial, of two, for using seditious words).

<sup>145</sup> Olssen, **Red Feds**, p.182. William Thomas Young was prosecuted in the Wellington Magistrate's Court on three charges relating to a single speech he gave at the Basin Reserve, Wellington, on 26 October 1913. On the charge of inciting diverse unknown persons to resist constables he was found guilty by Magistrate Riddell and sentenced to three months imprisonment and to enter a bond of £250, with two sureties of £250 each. (Young served this sentence from 02 February 1914 to 01 May 1914 following an unsuccessful appeal to the Supreme Court). After the initial conviction for inciting the charge asking for sureties of the peace was withdrawn by the police, though Riddell made the unusual decision to impose sureties anyway as part of the sentence for the first charge. The third charge was uttering certain seditious words, for which Young was convicted by a jury (with a strong recommendation to mercy) at his second trial on 15 May 1914. (The jury had been

speakers may have hoped that their words might spark an anti-capitalist uprising, but even they would have been extremely surprised if such had been the outcome.

Unlike violence against the person, insulting language, threatening behaviour and public speeches, crimes involving theft and violence against property were not used as forms of protest or reprisal against the State. Only one theft (of £2 of brass fittings from the New Zealand Government's Railway Workshops at Petone) and two incidents of property damage (of a police cell door and a window in a police station, respectively) involved the State. None of these three offences was strike related.<sup>146</sup>

In at least two strike related Wellington court cases the defendants and some of the defence witnesses committed perjury. On 10 December 1913 Arthur Hodgkinson, a waterside worker who was on strike, was charged with having assaulted certain special constables during the Featherston Street riot of 05 November. The prosecution alleged that Hodgkinson had thrown a stone at the specials. 'Hodgkinson denied that he had been in Featherston Street at the time of the riot. He added that he had been at his boardinghouse in Lorne

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unable to agree on a verdict at his first trial on 19 February 1914). After an unsuccessful appeal to the Court of Appeal Young was treated leniently by the sentencing judges (Chief Justice Stout and Justice Hosking). He was not imprisoned, but only ordered to come up for sentence when called upon (that is, he would only reappear before the Court if he committed another offence). (**The Dominion**, 29 November 1913, p.6, cols. 4-6; 05 December 1913, p.8, cols. 4-5; 03 February 1914, p.11, col. 6; 20 February 1914, p.10, cols. 5-6; 16 May 1914, p.6, cols. 1-2; and 11 August 1914, p.9, col. 5; and **New Zealand Police Gazette**, 1914, pp.316 and 468). Pat Hickey was not prosecuted in Wellington.

<sup>146</sup> **The Dominion**, 12 November 1913, p.10, col. 4; 17 December 1913, p.11, col. 5; and 13 January 1914, p.11, col. 5. For some unknown reason **The Dominion** reports George Walsh's damage of the police cell door in the strike related crime section, though no connection with the strike is mentioned in the report and the offence has all the characteristics of similar offences by extremely drunk individuals



Street when the disturbance occurred. He called three strikers to support his statements.' Under cross examination one of the defence witnesses admitted that he had seen the accused at the place the prosecution witnesses stated that Hodkinson had thrown the stone from. When this witness was asked "were you throwing stones?" he refused to answer on the grounds that he might incriminate himself. When subsequently asked if he had seen the accused throwing stones he replied: "I decline to answer". Magistrate Riddell concluded "I think the defendant has committed perjury", and convicted Hodkinson.<sup>147</sup>

On 21 November 1913 another striking watersider, Walter Burton, admitted lying under oath concerning his throwing of stones during the Featherston Street riot. Burton was prosecuted on two charges related to two separate offences during the Featherston Street riot. The more serious charge, taking part in a riot, was dealt with first. The prosecution witnesses testified that Burton had thrown stones at the special constables. No evidence was presented by the defence and Burton pleaded not guilty. He was committed to the Supreme Court for trial. The second charge concerned an assault on a bystander who had been watching the parade of the specials. The bystander, E. V. Bevan, had smacked and sent away a telegraph messenger boy who he had seen throwing stones. Burton and three or more others had objected to Bevan's action by attacking him. They committed a prolonged assault on Bevan involving dozens of blows, some of which were

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before the strike. This case is therefore considered throughout this thesis as not related to the strike.

<sup>147</sup> **The Dominion**, 11 December 1913, p.8, col. 5. Hodkinson was fined £4, with the alternative of fourteen days imprisonment, and was required to enter into a bond of

inflicted while Bevan was jammed against a wall and his arms were held. In the course of the hearing of this summary charge Burton lied under oath and a few minutes later admitted he had lied:

[Chief Detective Broberg - the prosecutor] Did you find any stones?

[Burton] - "No."

Did you throw any stones? - "No."

You heard the witnesses swear that you threw stones? - "Yes."

Were they lying?

Burton hesitated.

The Chief Detective: Yes or No?

Mr. Dickson [Burton's lawyer]: I don't think this is fair.

The Magistrate: It is quite fair. He might be charged with perjury.

The Chief Detective: Yes or No?

Burton: No!

The Chief Detective: They told the truth?

Burton: Yes.

The Chief Detective: You threw stones?

Burton: Yes.<sup>148</sup>

Burton was then convicted of assaulting Bevan and sentenced to six weeks imprisonment.<sup>149</sup> When the rioting charge came before the Supreme Court Burton changed his plea to guilty and was sent to prison for eight months.<sup>150</sup>

Richard Jones's court hearing on 17 November also appears to have involved perjury by defence witnesses. Jones, a striking wharf labourer, was charged with assaulting a mounted constable during the disturbance in Post Office Square on 30 October. Jones 'swore that he was not in the Square at

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£40, with two sureties of £20 each, to keep the peace for six months (**The Dominion**, 11 December 1913, p.8, col. 5). Hodkinson was not prosecuted for perjury.

<sup>148</sup> **The Dominion**, 22 November 1913, p.6, col. 8.

<sup>149</sup> **The Dominion**, 22 November 1913, p.6, col. 8. For Burton's occupation see **The Evening Post**, 14 November 1913, p.7, col. 9. Burton was not prosecuted for perjury.

<sup>150</sup> **The Dominion**, 03 February 1914, p.8, col.5; and 09 February 1914, p.3,col.4.

the time of the trouble. He asserted that he was in the four-penny bar of the Pier Hotel. Accused was then cross-examined by Chief-Detective Broberg, and some of his statements were afterwards contradicted by witnesses with whom he went into the Pier Hotel.' Earlier in this prosecution Mr. Dickson, the lawyer for the defence, had cross-examined Detective Rawle and asked 'if he would swear that Jones was in the Square at 5.40 p.m.' Detective Rawle answered 'Yes'. Mr. Dickson continued, 'If I call two witnesses to say that he was not there, will you say they were lying?'. Detective Rawle replied 'Yes, they would be lying and committing perjury at that.' Magistrate Riddell convicted Jones and sentenced him to six weeks in gaol.<sup>151</sup>

In a strike related prosecution heard in the Auckland Magistrate's Court on 26 November Magistrate Frazer stated 'the conclusion was irresistible that the four witnesses for the defence were guilty of perjury.' The accused was a waterside worker on strike who had been charged with using insulting language. He denied the charge. Three defence witnesses 'each swore positively that accused did not call out or address the complainant in any way. Each witness was cautioned that it was a serious matter, and were warned to be careful, because of the definite statements of witnesses for the

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<sup>151</sup> **The Dominion**, 18 November 1913, p.9, col. 2. For Jones's occupation and a critique of Magistrate Riddell's decision to convict in this case see **New Zealand Truth**, 22 November 1913, p.5, cols. 6-7 (1st version of this issue on the microfilm). In a further five Wellington prosecutions for strike related offences the magistrate refused to believe the alibis or claims of mistaken identity offered by the accused and convicted the accused. In these cases no comments concerning alleged perjury or false testimony were reported in the newspaper court reports. Four of the five accused were striking waterside workers. The fifth accused was an engine-driver at a timber yard who allegedly committed his offence (supplying rioters with missiles) while he was at work. See **The Evening Post**, 09 December 1913, p.7, col. 9 and p.8, col. 1; and **The Dominion**, 27 November 1913, p.9, cols. 2-3; 28 November 1913, p.9, col. 3; and 04 December 1913, p.9, col. 8. For extra useful information on the occupation

prosecution, and the independent evidence of the police.’ The accused was convicted and fined £3, with the default for non-payment set at fourteen days imprisonment.<sup>152</sup>

On 22 November Magistrate Frazer had reached the same conclusion concerning another Auckland strike related case. William Windsor, a cook and waiter, ‘was charged with having used threatening behaviour in Symonds-street. It was alleged accused, addressing a storekeeper who had interfered with a crowd chasing some men, remarked to other men: “Mark him boys,” and “I’ll do for you to-night.” The allegations were denied by the accused and several witnesses. The Magistrate said he didn’t believe the evidence for the defence. He was going to severely discourage any attempt at perjury.’ A fine of £5 was imposed, with the alternative of fourteen days hard labour.<sup>153</sup>

The heightened social tensions caused by the strike, the overt social conflict of the period, and the circumstances of each criminal incident suggest that some or many of those involved in giving false testimony were not simply trying to protect their friends or avoid being convicted. The individuals may have considered the prosecutions to be unjustified, even if there had been a technical violation of the law. The acts of perjury may have been protest against the authorities for proceeding with the specific prosecutions, and more generalised protest and defiance against the role of the state in the strike. Fear of an excessive or harsh penalty from the magistrate may also

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of one of the above accused see **The New Zealand Times**, 28 November 1913, p.8, col. 4.

<sup>152</sup> **The Evening Post**, 27 November 1913, p.3, col. 6. Also see the related report in **The Dominion**, 29 November 1913, p.4, col. 7.

<sup>153</sup> **The Evening Post**, 22 November 1913, p.6, col. 3. For the name of the magistrate at this hearing, the occupation of the accused, and a more detailed report on the hearing see **The New Zealand Herald**, 24 November 1913, p.5, col. 4.

have influenced the decision to present false evidence. Though impossible to definitively prove, the possibility that perjury was used as protest against and in defiance of the authorities should not be overlooked.<sup>154</sup>

### **Explaining the Patterns of Violence and Verbal Abuse**

The analysis conducted in this chapter has demonstrated that while special constables were frequently victims of violence, there was very little violence against employers and strikebreakers. The lack of violence against strikebreakers is particularly surprising. The remainder of this chapter will suggest a number of possible explanations for these patterns of violence.

The motivation for the violence against special constables has already been discussed above. A brief summary here will suffice. Strikers and their sympathisers believed that the special constables had volunteered to help defeat the strike, and that the presence of the specials would harm the success of the strike. Stone throwing, other forms of violence, verbal abuse and threatening behaviour were used as acts of protest against the specials.

The sheer number of special constables, their marches through and patrols on the streets of Wellington, and the ease of identifying who was a special by simply looking for a horse or a baton allowed considerable opportunity for violence and abuse. The only consideration for many

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<sup>154</sup> It is possible that the perjury in some of these cases was committed by the prosecution witnesses rather than by the defence witnesses and the defendants. This cannot be proven from the available evidence. It is also possible that some of the defence witnesses had been so drunk at the time of the original incident that they genuinely believed the evidence they were giving was correct. Again this cannot be proven from the available evidence. It seems safe to assume that at least some of the cases involved deliberate perjury by the defence witnesses and that these defence witnesses were usually (if not always) supporters of the strike.

protesters before they committed an illegal act of protest would have been the risk of being apprehended.

As the strike progressed the specials became less tolerant of verbal abuse and stone throwing and attempted to arrest every individual who committed an offence against them. After 05 November there were no further mass riots and the specials were able to devote their time and attention to chasing down specific offenders. In response strikers and their sympathisers became less willing to directly confront the specials using tactics which would make them liable to arrest.<sup>155</sup>

The number of reported incidents of violence or verbal abuse fell dramatically. The proportion of offenders who were arrested and prosecuted increased considerably. For the period of the mass disturbances and riots against special constables (29 October to 05 November) it is impossible to quantify the number of specific offences, or the number of individuals who committed illegal acts of protest. It has been estimated that one thousand persons took part in the attack on the special constables at the Post and Telegraph Stores on 30 October.<sup>156</sup> How many of these persons actually threw stones, verbally abused the specials, or were guilty of "taking part in a riot" is unknown. The number may have been ten or one hundred. Six persons were prosecuted, and four were convicted. For the entire period of 29 October to 05 November it seems safe to assume that the number of individual offences and offenders must have been at least in the hundreds.

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<sup>155</sup> See **The Dominion**, 10 November 1913, p.9, col. 4; and **The Evening Post**, 20 November 1913, p.7, col. 8 and p.8, col. 2. Also see **The Dominion**, 21 November 1913, p.8, col. 8 and p.9, col. 1.

Twenty-one men and one woman were prosecuted for offences against special constables on these dates. Offences against specials from 06 November to the end of the strike resulted in the prosecution of 28 men. The last date of an offence against a special which led to a prosecution was 29 November.<sup>157</sup> The small number of reported offences not ending in arrest and prosecution is clear from the news items and court reports in *The Dominion*.<sup>158</sup>

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<sup>156</sup> Evidence given by Police Sergeant McGlone on 05 December 1913 in support of the application for sureties of the peace against Robert Semple (*The Dominion*, 06 December 1913, p.6, col. 5).

<sup>157</sup> See *The Dominion*, 02 December 1913, p.6, cols. 4-5. There was one later offence on 11 December which seems to have been in part directed at a special constable, though the newspaper report in *The Dominion* (13 December 1913, p.6, col. 1) is not particularly clear as to who the victim or victims of the threatening behaviour was or were. A prosecution resulted but because of the context of the incident and the uncertainty over who the victim was this has been considered as a non-strike related crime throughout this thesis, and it is better to exclude this example from the above analysis. The 'accused had made himself obstreperous in the bar of the Royal Tiger Hotel. The licensee had then called on a special constable to remove him. This was done after considerable trouble. Out on the footpath a constable had come on the scene, and it was only after great trouble that accused was got to the lock-up.' (*The Dominion*, 13 December 1913, p.6, col. 1). It appears most likely that any offence against the special (if there was one) was not directed at him because he was a special constable but rather because he had attempted to assist the licensee. The same result would have occurred if the individual had been a regular police constable or simply a member of the public. The accused, in fact, resisted arrest by a regular police constable minutes after the first incident. (Wellington Magistrate's Court Criminal Record Book, no. 83, December 1913, prosecution no. 6458; and *The Dominion*, 13 December 1913, p.6, col. 1). The accused also had a considerable criminal record with at least thirteen previous convictions. The previous convictions included resisting police, obscene language, wilful damage, vagrancy, being drunk and disorderly, fighting, and breaches of a prohibition order. He had been convicted between 1911 and 1913 at courts in Wellington, Carterton, Masterton, Lyttelton, Palmerston North and Dannevirke. (See *New Zealand Police Gazette*, 1911, pp.43, 240, 293, 457, 575 and 601; 1912, pp.47, 379, 434 and 650; 1913, pp.16 and 334; and 1914, p.33).

<sup>158</sup> See *The Dominion*, 10 November 1913, p.9, col. 4; 11 November 1913, p.8, col. 8; 15 November 1913, p.6, col. 8; 20 November 1913, p.8, cols. 4-6; 21 November 1913, p.8, col. 8 and p.9, col. 1; and 25 November 1913, p.9, col. 4. Also see *The Evening Post*, 04 December 1913, p.8, col. 1.

The special constables were part of the reason why there was so little violence against employers and strikebreakers. As noted above the hundreds of specials guarding the wharves from 06 November onwards presented an almost insurmountable obstacle to those who wanted to intimidate or attack strikebreaking wharf labourers while they were at work. By guarding the wharves the specials also protected the business property of the employers of watersiders and seamen. With the majority of the "scab" watersiders choosing to sleep and eat on the ships they were loading or unloading or in a converted wharf shed the specials guarded these "scabs" twenty-four hours a day. In addition, the specials escorted some of the strikebreaking carters around Wellington.

The violent confrontations from 03 November to 05 November between the special constables and those who supported the strike may have drained many of the strike supporters of their enthusiasm for and willingness to engage in collective violence. The disturbances of 29 and 30 October had been successful for those hostile to the specials. The specials had been forced to gallop away from their attackers on the morning of 30 October and a special sought sanctuary from an angry crowd in a Lambton Quay bookshop in the afternoon. The violence of 03 to 05 November had not driven the specials from the streets or prevented the race horses being shipped to Lyttelton. The stone-throwers had been repeatedly forced to scatter by the charges of the specials.<sup>159</sup> Violence no longer appeared as an effective way of ensuring the success of the strike, nor as a viable form of protest. This may help to explain why there were so few attacks on those strikebreakers

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<sup>159</sup> See Hill, *The Iron Hand in the Velvet Glove*, pp.308-309 and 312-314.



who were not constantly protected by special constables, in particular those wharf labourers who returned to their Wellington homes each evening and the carters. It should be remembered that the first of the Arbitrationists only started work on 06 November.

Another influence on the low level of violence against employers and strikebreakers appears to have been the unwillingness of many strikers to resort to violence, unless the target was a special constable. There were repeated calls by union leaders and officials to avoid violence. The strike leaders and many of the rank and file realised that violence would have a negative impact on public opinion and public sympathy towards the strike. The leaders also feared that violence might lead to the reading of the Riot Act or 'a repetition of the fatal affair at Waihi' of November 1912 when a striker died from injuries he received during a confrontation between strikebreakers, strikers and the police.<sup>160</sup> At the first strike meeting after the arrest of the Wellington strike leaders a message from the arrested leaders was read 'expressing the hope that the workers would not go near the gaol in which they were confined.'<sup>161</sup>

Early in the strike some leaders had publicly stated that violence against special constables, regular police, and against the property of

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<sup>160</sup> See **The Evening Post**, 29 October 1913, p.8, col. 3 (which contains the quote concerning the Waihi fatality); and 31 October 1913, p.8, col. 1; and **The Dominion**, 03 November 1913, p.9, col. 5. On the Waihi miners' strike of 1912 and the fatality see the references given on p.32 (Chapter One) and p.151 (Chapter Five) of the current thesis. In Christchurch on 25 November 1913 strike leaders 'addressed the strikers, urging restraint, stating they must disregard an attempt to create an excuse for the appearance of armed "specials".' (**The Dominion**, 26 November 1913, p.9, col. 3). For an analysis of the attitude, comments and actions of strike leaders in New South Wales in the late nineteenth century concerning violence during industrial disputes see Walker, 'Violence in Industrial Conflicts in NSW late 19th C', pp.65-66.

<sup>161</sup> **The Dominion**, 13 November 1913, p.8, col. 3.

employers might be necessary if the situation became desperate. For instance, on 29 October Peter Fraser declared that if the employers tried to starve the strikers in to submission 'then the workers of Wellington, and of New Zealand, are going to get food, and if a few doors have to be burst, like the Basin Reserve gate, all the worse for the doors.'<sup>162</sup> On 26 October William Thomas Young had encouraged the strikers to retaliate if they were hit with a baton and he threatened that the wharves would be destroyed if scabs were employed.<sup>163</sup> As argued above, most of these "inflammatory" comments were probably intended to entertain and hearten the strikers, rather than to incite violence.

The work of R. B. Walker on violence during industrial disputes in late nineteenth century New South Wales suggests two further factors which may have contributed to the low level of violence against employers and strikebreakers in Wellington in 1913. The first factor was a respect for the law, or at least many aspects of the law, among blue collar workers. The second influence was that there were no precedents of violence gaining victories for labour.<sup>164</sup> Both the influences seem to be applicable to New Zealand in 1913. These factors fail to account for the violence against the special constables, though they may explain why such violence was not even more widespread, more serious and longer lasting than it was.

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<sup>162</sup> The source of the quote is the official wording of the related criminal charge as reported in **The Dominion**, 13 November 1913, p.8, col. 5.

<sup>163</sup> Young's comments are quoted on p.143 of the current chapter. The source of this quote is the official wording of the related criminal charge against Young as reported in **The Dominion**, 13 November 1913, p.8, col. 4. Also see the strike speeches by Henry Holland on 26 October 1913 and Robert Semple on 01 November which formed the basis of criminal prosecutions against them (as quoted in **The Dominion**, 13 November 1913, p.8, col. 5, and 20 November 1913, p.9, col. 4, respectively). Semple's comment is quoted on p.204 of the current chapter.

Another potential explanation for the low level of violence against certain groups involved in the strike was that trade unions and political organisations were effective in channelling the grievances and conflict into non-violent forms. Charles Tilly, Louise Tilly and Richard Tilly suggested this may have been part of the reason why strikes in Germany between 1891 and 1913 were much less likely to involve collective violence than German strikes of the period 1864 to 1880.<sup>165</sup> The New Zealand strikers of 1913 were encouraged by their leaders to demonstrate, to picket, to march, and to attend meetings. The strikers also knew that if the strike was not successful they could attempt to improve their situation by voting for labour candidates at the next national election. Violence was not the last or only option.

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<sup>164</sup> Walker, 'Violence in Industrial Conflicts in NSW late 19th C', pp.66-70.

<sup>165</sup> Tilly, Tilly, and Tilly, **The Rebellious Century: 1830-1930**, p.227. The decline in strike violence was from collective violence in about five per cent of all strikes in the earlier period to 0.25 per cent between 1891 and 1913 (p.227). The relevant totals of strikes involving collective violence and of all strikes are presented on p.11 (Chapter One) of the current thesis.

## Chapter 6

### Intensified Efforts to Control Disorder or the Repressive Use of the Criminal Law?: Criminal Prosecutions, Verdicts, Sentences and the 1913 General Strike in Wellington

Another marked feature [of proceedings in the Wellington Magistrate's Court] has been the attitude of hostility displayed towards anyone connected with strike offences by all the officials - magistrate, police force and detectives. No lawyer defending a strike charge has a chance of airing his eloquence. The accused seemed to be condemned before they stepped into the box.<sup>1</sup>

The court reporters and editors of *New Zealand Truth* repeatedly criticised decisions made by magistrates in Wellington and Christchurch concerning strike related charges. In their opinion the magistrates were at best too trusting of the testimony given by special constables, and at worst biased and acting according to instructions received from Minister of Justice Herdman. The most severe criticism was directed at Magistrate Riddell of Wellington. The police were also implicated in the criticism through their role in "creating crime" by bringing prosecutions over trivial or extremely minor incidents.<sup>2</sup>

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<sup>1</sup> *New Zealand Truth*, 22 November 1913, p.5, col. 8 (1st version of this issue on the microfilm). (Three editions were published of each weekly issue of the *New Zealand Truth*: the South Island edition, the Country edition, and the Wellington edition. It was not stated on the individual newspapers which edition was which. The contents of each edition often varied considerably. For October 1913 to February 1914 only two of the three editions were microfilmed. It is not clear which edition is missing.)

<sup>2</sup> See *New Zealand Truth*, 22 November 1913, p.5, cols. 7-8 and p.6, col. 1 (1st version of this issue on the microfilm); 29 November 1913, p.4, col. 5 (1st version on microfilm); 29 November 1913, p.6, cols. 6-8 (2nd version on microfilm); 06 December 1913, p.6, col. 1 (2nd version on microfilm); and 13 December 1913, p.4, cols. 4-5 and 6 (1st version on microfilm). In its 06 December issue, (1st version on microfilm, p.6, col. 5) *New Zealand Truth* praised Wellington Magistrate Evans for dismissing a strike related prosecution. A week later, Evans was severely criticised for upholding the conviction in a strike related re-hearing (*New Zealand Truth*, 13 December 1913, p.4, col. 5 - 1st version on microfilm).

The validity of *New Zealand Truth's* criticism for the specific cases it discusses is extremely difficult to determine. The critiques seem plausible, but then so do the basic justifications for prosecution and conviction as are visible in the descriptions of evidence presented in the (more conservative) daily newspapers. Any attempt to analyse the court proceedings on a case by case basis would only engender the inconclusive debate associated with all controversial judicial decisions.<sup>3</sup> In addition, there is the problem of incomplete evidence on the court hearings. However detailed the newspaper reports are, they are only summaries, and full transcripts or official court records for most cases do not exist. The level of detail and the specific information reported on a particular case also varied considerably between different newspapers.<sup>4</sup>

In other countries the repressive use of the criminal law by the judiciary and the police during industrial disputes was sometimes more than simply the imagination of the working-class press. Numerous incidents of questionable

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<sup>3</sup> For example, consider the ongoing debates in New Zealand in the 1990s and 2000 over the convictions of David Bain and Scott Watson for multiple murders. Not only are the verdicts of the juries questioned, but also the reliability of the prosecution evidence. For a few of the hundreds of relevant reports see Cate Brett, 'Beyond Reasonable Doubt: Can We Be Sure About David Bain?', **North and South**, no. 113, August 1995, pp.90-101; Neil Reid, 'Police Case "Nonsense"', **The Evening Post**, 19 April 1997, pp.15 and 16; Neil Reid, 'Karam's Allegations Rejected', **The Evening Post**, 26 November 1997, p.11; and **The Evening Post**, 13 November 2000, p.4, cols. 1 and 2 (first editorial: 'Secret Witnesses: Can They Be Believed?').

<sup>4</sup> The reporting of William George Cockell's hearing in the Wellington Magistrate's Court on 20 November 1913 for taking part in the Featherston Street riot is illustrative. Each of **The Dominion**, **The Evening Post**, **The New Zealand Times**, and **New Zealand Truth** provided extensive coverage of proceedings in the Wellington courts, especially concerning strike related offences. **The Evening Post's** report (20 November 1913, p.8, col. 1) on Cockell's hearing was a highly summarised 15 lines. In contrast, the equivalent article in **The Dominion** (21 November 1913, p.8, cols. 7-8) was 129 lines long.

arrests, prosecutions, convictions and sentences have been highlighted by historians, criminologists and sociologists (as discussed in Chapter Four).

In addition, intensified efforts to police, prosecute and punish offenders were a very real possibility during periods of social conflict and heightened social tensions.<sup>5</sup> Such a control response could contribute to an impression that the criminal law was being misused. Greater numbers of prosecutions, less leniency by the police and judiciary, more convictions, larger fines and longer terms of imprisonment, could appear to be repressive when the intended effect of these actions was not malicious but simply to deter further offending and minimise or prevent future disturbances. Intensified efforts at social control could also have repressive functions and motivations.

This chapter will examine the extent to which the police and the judiciary intensified their efforts at social control using the criminal law on the streets and in the courtrooms of Wellington in late 1913. The possibility that such efforts were intended to be repressive and hasten the defeat of the strike will also be considered. First, prosecutions by the police will be examined. Secondly, the response of the judiciary to a period of heightened social tension and civil disorder will be analysed.<sup>6</sup> Any attempts by the government to modify the criminal law in response to the 1913 strike will also be discussed.

The prosecutions will be considered as a whole, and trends in the prosecutions will be discussed and compared with pre-strike patterns. This

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<sup>5</sup> See Chapter Four.

<sup>6</sup> As previously noted, the term 'judiciary' is used in this chapter to refer to the combined category of magistrates and Supreme Court judges. When magistrates only are being discussed the term magistrates will be used, and similarly the terms judge,

should avoid the problems inherent in any attempt to judge the merits and “fairness” of each individual conviction. The extent, if any, to which “law and justice were set aside” and “crime was created” (to paraphrase the *New Zealand Truth*) will also be clarified.<sup>7</sup>

### **Maintaining Social Order or Suppressing Dissent ? - Prosecutions by the Police**

If the police in Wellington intensified their efforts to prosecute in response to the strike and the associated disturbances, this, theoretically, should have resulted in a considerable rise in the number of prosecutions. The same result would have occurred if the police had used their power to prosecute to suppress dissent. This condition was fulfilled in relation to a number of types of crime brought before the Magistrate's Court. As previously noted charges of rioting, unlawful assembly, inciting breaches of the peace, inciting resistance of constables, use of seditious words, and use of insulting words or threatening behaviour with intent to provoke breaches of the peace experienced the most dramatic rise: from four in the pre-strike period to 78 during the strike. Obscene language prosecutions tripled, from 6.37 per month prior to the strike to 21.5 per month for the strike period. Violent crime prosecutions (excluding private prosecutions) tripled, from 12.33 per month to 37 per month during the strike.<sup>8</sup> The proportion of prosecuted violent offences against policemen (regular or special) also rose, from 4.10%

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judges, or the Chief Justice will be used when referring only to a Supreme Court judge or judges.

<sup>7</sup> *New Zealand Truth*, 06 December 1913, p.6, col. 1 (2nd version of this issue on the microfilm).

<sup>8</sup> Including private prosecutions the increase in violent crime prosecutions was from 16.24 per month before the strike to 39 per month during the strike.

(12 of 293) of all violent crime against persons in the pre-strike period, to 42.62% (26 of 61) while the strike was in effect.<sup>9</sup>

These figures alone are not sufficient evidence to conclude that the rise in prosecutions was an effect of intensified efforts by the police to maintain social order or to repress protest. The increase in prosecutions may have been solely a reflection of a greater level of criminal offending, motivated to a considerable extent by antagonisms arising from the strike.<sup>10</sup>

An analysis of charges withdrawn before they reached trial indicates that police prosecutors took extra effort during the strike to increase the probability that those accused of strike related crimes were convicted. Of all 97 prosecutions for strike related "other" offences against the State 21 (21.65%) were withdrawn. This compares with a withdrawal rate of less than one percent for "other" crimes against the State for the pre-strike period (two of 242 - 0.83%), and a rate of 4.55 per cent for similar non-strike related offences (two of 44).

Most of the withdrawn charges related to the strike were for two types of offences: rioting (including unlawful assembly) and inciting disorder. The withdrawal rate for rioting and unlawful assembly was 43.33 per cent (13 out of 30 prosecutions); and almost as high, 36.36 per cent (4 out of 11), for charges of inciting persons to resist constables or inciting breaches of the peace.

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<sup>9</sup> Excluding private prosecutions the equivalent figures are 5.85% (12 of 205) prior to the strike and 45.61% (26 of 57) in the strike period. For a detailed analysis of the violence against the police (regular and special) see Chapter Five, pp.156, 161, 162, 164, 178-179, 196-204 and 211-217.

<sup>10</sup> Strike related offending is analysed in Chapter Five.



**Table 12: Withdrawn Strike Related Charges  
(concerning Offences Allegedly Committed in Wellington During the  
General Strike of 1913) <sup>11</sup>**

Type of Strike Related Crime			Total No. of Prosecutions for that Type of Crime		Withdrawn No.      %	
<b>Strike Related Violent Crime:</b>						
<b>a) Violent Crime Against Persons:</b>						
Threatening Behaviour whereby a Breach of the Peace			16		1	6.25%
was occasioned						
<b>a) Total Violent Crime Against Persons:</b>				39	<b>1</b>	<b>2.56%</b>
<b>b) Violent Crime Against Property:</b>						
Wilful damage or destruction of barriers / barricades			5		1	20.00%
<b>b) Total Violent Crime Against Property:</b>				7	<b>1</b>	<b>14.29%</b>
<b>Total All Violent Crime:</b>				46	<b>2</b>	<b>4.35%</b>
<b>Strike Related Other Crimes Against the State:</b>						
Taking Part in a Riot			25		8	32.00%
Taking Part in an Unlawful Assembly			5		5	100.00%
Inciting diverse unknown persons to resist constables			6		2	33.33%
Inciting persons to commit a breach of the peace			5		2	40.00%
Uttering Certain Seditious Words			5		1	20.00%
Insulting Words with Intent to Provoke a Breach of			17		1	5.88%
the Peace						
Threatening Behaviour			4		1	25.00%
Obscene Language			15		0	0.00%
Did not exhibit license for vehicle when requested to			1		1	100.00%
by police constable						
<b>Total Other Crimes Against the State:</b>				97	<b>21</b>	<b>21.65%</b>

<sup>11</sup> None of the strike related charges in the table below were private prosecutions. For each charge the decision to prosecute was made by the police, after either witnessing the offence or receiving a complaint from a member of the public. The only private prosecutions in Wellington connected to the strike were the desertion and similar charges brought by the shipping companies against some of their employees, as discussed in Chapter Five, pp.180-186.

**Table 13: Cases Withdrawn - Wellington**  
**(concerning the Twenty-four and a Half Months**  
**preceding the 1913 Strike) <sup>a</sup>**

Type of Crime		Total No. of Prosecutions for that Type of Crime		Withdrawn	
				No.	%
<b>Violent Crime:</b>					
<b>a) Violent Crime Against Persons:</b>					
Assault (one involving a police constable as victim)		189		12	6.35%
excluding private prosecutions			93	2	2.15%
Aggravated Assault		6		1	16.67%
Actual Bodily Harm with Intent to do Grievous Bodily Harm		1		1	100.00%
Assault so as to cause Actual Bodily Harm		8		1	12.50%
Threatening Behaviour whereby a Breach of the Peace		65		1	1.54%
was occasioned					
<b>a) Total Violent Crime Against Persons:</b>			294	16	5.44%
<b>b) Violent Crime Against Property:</b>					
Wilful damage		91		3	3.30%
Throwing a stone to the danger of property		4		1	25.00%
<b>b) Total Violent Crime Against Property:</b>			104	4	3.85%
<b>Total All Violent Crime:</b>			398	20	5.03%
<b>Larceny:</b>					
Theft		684		17	2.49%
Attempted Theft		7		1	14.29%
Breaking and Entering (nothing stolen)		8		1	12.50%
False Pretences		19		3	15.79%
Receiving stolen property		16		1	6.25%
<b>Total Larceny:</b>			816	23	2.82%
<b>Other Crimes Against the State:</b>					
Obscene Language		156		2	1.28%
<b>Total Other Crimes Against the State:</b>			242	2	0.83%

<sup>a</sup> For the specific types and proportions of strike period but not strike related charges withdrawn see Appendix 8.

Twenty-one individuals (nineteen men and two women) had strike related "other" charges against them withdrawn. Only one of these persons, however, left the justice system without a conviction for a strike related offence. Each of the other twenty accused were convicted on a second charge related to the same incident as the withdrawn charge. Nineteen were convicted in the Magistrate's Court, and the twentieth by a Supreme Court jury.<sup>12</sup> The individual not convicted of any offence was William John Compton. He was charged with having used insulting words with intent to provoke a breach of the peace. The charge was withdrawn by the police because 'the wrong man had been arrested'.<sup>13</sup>

The strategy of the police prosecutors in most of these cases was to present multiple charges (usually two) of varying seriousness concerning each "criminal" incident. Once a conviction was achieved the police withdrew the remaining charge. For example, at William Henry Lawton's hearing in the Magistrate's Court on 21 November Chief-Detective Broberg stated that the prosecution intended to 'proceed with the hearing of the charge that Lawton took part in a riot, and to withdraw the unlawful assembly charge if the accused were committed [to the Supreme Court] on the former'. Lawton pleaded guilty to the riot charge, was committed for sentence to the Supreme Court, and the unlawful assembly charge was withdrawn.<sup>14</sup>

Twelve of the nineteen instances of both a conviction and a withdrawn charge in the Magistrate's Court conform to this pattern. In an additional four

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<sup>12</sup> Three of these accused were in addition convicted of strike-related crimes committed on a different day to their withdrawn charge and related conviction.

<sup>13</sup> **The Dominion**, 09 December 1913, p.8, col. 8.

<sup>14</sup> **The Dominion**, 22 November 1913, p.6, cols. 7-8 (the quote is from col. 7).

cases the sequence of conviction and withdrawal is not clearly stated in the newspaper court reports. (For three of these cases the reports imply that the second charge was withdrawn after a conviction resulted from the first charge).<sup>15</sup> Of the twelve accused for whom the sequence of conviction and withdrawal is known ten had the more serious charge withdrawn (including six of the taking part in a riot charges), and two were convicted of the more serious offence (taking part in a riot, and inciting diverse persons to resist constables, respectively).

The alternate charges for the six withdrawn taking part in a riot charges involved considerably less serious penalties than the punishment for rioting, though the penalties were still substantial. Mandatory imprisonment for between eight months and two years was the punishment for the ten men convicted of taking part in a riot (five pleaded guilty, five were convicted by a jury after pleading not guilty). None of the six men against whom taking part in a riot charges were withdrawn (after being convicted on a related charge) received a sentence of mandatory imprisonment. Instead they were fined substantial amounts and ordered to find sizeable sureties to keep the peace. Two of the men were unable to pay their fines or find sureties and in default spent the months of December 1913 and January 1914 in prison.<sup>16</sup>

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<sup>15</sup> Information on the sequence of conviction and withdrawal, and the causes of charges being withdrawn has been obtained from the court reports of the three Wellington daily newspapers: **The Dominion**, **The Evening Post**, and **The New Zealand Times**. The Criminal Record Books are only informative on the sequence of conviction and withdrawal for the three individuals who had a charge against them withdrawn on a different day to the resolution of the related charge.

<sup>16</sup> Both of these men (Thomas Acland and Robert James Christopher Seal) were later convicted by Supreme Court juries in early February 1914 on other strike related charges. For these convictions they respectively received sentences of twelve months and seven months mandatory imprisonment. See **The Dominion**, 04 December 1913,

In two other cases there was a different cause for multiple charges. The police took into account unusual or extenuating circumstances affecting the accused, withdrew the more serious charge, and replaced it with a lesser charge. Sydney Claridge was initially accused of taking part in the Royal Tiger Hotel riot, by throwing fireworks at the feet of the horses ridden by mounted regular police who were attempting to protect the Hotel. Due to his weak 'intellectual condition' (he 'was 29, but had the mind of a boy') along with a good character reference the police requested that the charge be reduced to one of the use of conduct likely to provoke a breach of the peace.<sup>17</sup> For participating in the Featherston Street riot on 05 November Agnes Udall was charged with taking part in an unlawful assembly. The start of criminal proceedings against her resulted in repeated attacks of hysteria which led to her being hospitalised. Both her lawyer and the police prosecutor 'feared the consequence' on her health of persisting in the prosecution, and agreed to reduce the charge to threatening behaviour whereby a breach of the peace was occasioned. The alteration of the charge, combined with her lawyer pleading guilty on her behalf, also dispensed with the necessity of the accused's attendance in Court.<sup>18</sup>

The only information known about the nineteenth withdrawal is that the charge against Frank Law of taking part in an unlawful assembly was withdrawn by the police two days before he was convicted on a lesser charge of threatening behaviour whereby a breach of the peace might have been

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p.9, col. 8; 05 February 1914, p.9, cols. 4-5; 07 February 1914, p.6, col. 3; and 09 February 1914, p.3, col. 4; and **The Evening Post**, 08 December 1913, p.7, col. 9.

<sup>17</sup> **The Dominion**, 28 November 1913, p.9, col. 3.

<sup>18</sup> **The Dominion**, 27 November 1913, p.9, col. 4. On the sentences Udall and Claridge received see pp.272-273 in the current chapter.

occasioned. The newspaper reports do not explain why this charge was withdrawn.<sup>19</sup>

The prosecution strategy of obtaining a conviction then withdrawing the extra charge was not used prior to the strike. Two explanations seem to account for this difference: the seriousness of the offences and the confidence of the police in obtaining a conviction. The pre-strike "other" offences against the State were relatively minor infractions of the law (obscene language, resisting arrest, or obstructing constables in the execution of their duty constituted 221 of the 242 crimes), with an extremely high conviction rate of 98.43 per cent. The cases were reasonably simple (obscene language had either been used or it had not, a constable had been resisted or interfered with or he had not), the proportion of guilty pleas was high (73.73%), and the magistrate was willing to convict on only the testimony of the arresting constable if no other witnesses were available.<sup>20</sup>

In contrast, the strike related incidents concerning which multiple charges were laid and one was withdrawn were extremely serious (rioting, unlawful assembly, inciting disorder), or were at least perceived to be extremely serious by the authorities. There was also considerable uncertainty whether or not a conviction would result from the most serious charge. The percentage of guilty pleas fell to 34.03 per cent (for all strike related offences).<sup>21</sup> Defence witnesses and defence lawyers presented alibis for the accused, or argued that in the confusion of the crowd the wrong person had

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<sup>19</sup> See **The Dominion**, 19 November 1913, p.8, col. 8; 21 November 1913, p.8, col. 8 and p.9 col. 1; **The Evening Post**, 18 November 1913, p.8, col. 1; 20 November 1913, p.8, col. 1; and **The New Zealand Times**, 19 November 1913, p.7, col. 5; and 21 November 1913, p.7, col. 5.

<sup>20</sup> For the pleas see Table 14, p.233.

been arrested.<sup>22</sup> The most serious charges were usually indictable, requiring trial by jury if the accused pleaded not guilty. Securing a conviction from a jury was much less likely than from a magistrate, especially when the defence argument was plausible.<sup>23</sup> For example, Robert Hill pleaded not guilty to a summary charge of assaulting Police Constable Longbottom by throwing a bottle at him. He was convicted by Magistrate Riddell and imprisoned for fourteen days, but three Supreme Court juries were unable to agree on a verdict on the second charge of taking part in a riot concerning the same set of events. A stay of proceedings was then entered on the riot charge.<sup>24</sup>

For these reasons laying two or more charges regarding the same incident ensured the greatest chance of achieving at least one conviction. If the summary charge was successful, then the indictable charge could be

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<sup>21</sup> See Table 14, p.233.

<sup>22</sup> For examples see **The Evening Post**, 09 December 1913, p.7, col. 9 and p.8, col. 1; **The Dominion**, 25 November 1913, p.9, col. 4; 04 February 1914, p.5, cols. 1-2; 10 February 1914, p.9, col. 4; and **The New Zealand Times**, 13 November 1913, p.7, cols. 3-4.

<sup>23</sup> Of the seventeen individuals tried by juries for strike related offences only ten (58.82%) were found guilty. Five were acquitted of all charges (29.41%), and a stay of proceedings was entered concerning two men (11.76%) for whom multiple juries could not agree on a verdict. In the pre-strike period the acquittal by jury rate for violent crime was 33.33 per cent (6 of 18 accused); the conviction by jury rate was 66.67 per cent (12 of 18 accused). No "other" crimes against the state went before juries in the pre-strike period. For the strike related acquittals see **The Dominion**, 04 February 1914, p.5, col. 1; 05 February 1914, p.9, col. 4; 06 February 1914, p.5, col.3; 10 February 1914, p.9, col. 4; and 11 February 1914, p.8, col. 6. Also see the memorandum from the Crown Law Office (dated 27 November 1913) as quoted on pp.231-232 of this chapter.

<sup>24</sup> **The Dominion**, 07 February 1914, p.6, col. 3; 11 February 1914, p.8, col. 6; 15 May 1914, p.5, col. 2; and **The New Zealand Times**, 13 November 1913, p.7, cols. 3-4; and 18 May 1914, p.8, col. 5. For examples of Wellington magistrates not believing the alibis offered in strike related cases see **The Evening Post**, 09 December 1913, p.7, col. 9 and p.8, col. 1; and **The Dominion**, 18 November 1913, p.9, col. 2. For criticism of the decision to convict in the alibi case heard in November see **New Zealand Truth**, 22 November 1913, p.5, cols. 6-7 (1st version of this issue on the microfilm).

withdrawn (as happened concerning eight accused).<sup>25</sup> If the summary charge was dismissed there was still a possibility a jury would convict on the indictable count. The only instance of the latter sequence of court proceedings involved the strike leader Harry Holland. Holland faced two summary charges and two indictable charges. Neither summary charge resulted in a conviction. On 04 December 1913 one was dismissed and the second was withdrawn. The next day he was committed to the Supreme Court for trial on both indictable charges of uttering seditious words. A jury returned a verdict of guilty on each indictable charge in February 1914.<sup>26</sup>

The threat of a Supreme Court trial with a possible punishment of up to two years in prison might also encourage the accused to plead guilty to the lesser summary charge on the understanding that the indictable charge would then be withdrawn. Alfred Jansen, a striking waterside worker, faced two charges concerning his actions on Queen's Wharf on 24 October. Proceedings were initiated by the police on 29 November when an indictable charge of taking part in a riot was laid. At his second remand on 05 December a summary charge (threatening behaviour whereby a breach of the peace was occasioned) was added to the charge list. Four days later Jansen pleaded guilty to the summary charge, 'the understanding being that the police would make application to withdraw the indictable charge.' After a

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<sup>25</sup> The same outcome may also have eventuated for another two men for whom the sequence of conviction and withdrawal is not clear from the newspaper reports. One additional accused pleaded guilty in the Magistrate's Court to an indictable charge (taking part in a riot) after which the second indictable charge against him (taking part in an unlawful assembly) was withdrawn. (See pp.225-226 above).

<sup>26</sup> See *The Dominion*, 05 December 1913, p.8, cols. 4 and 5; 06 December 1913, p.6, cols. 7-8; 13 February 1914, p.4, cols. 1 and 2-3; and *The Evening Post*, 05 December 1913, p.3, col. 3. Also see pp.256 and 258-261 below. Court proceedings



conviction and sentence was entered by Magistrate Riddell the indictable charge was withdrawn.<sup>27</sup> The limited available evidence suggests that another four of those convicted of strike related offences also engaged in this type of plea bargaining.<sup>28</sup>

The decision to withdraw five of the rioting charges may have been influenced by advice from the Crown Law Office. On 27 November a memorandum was sent from the Crown Law Office to the Attorney General concerning the prosecution of "strikers" charged with taking part in riots.

I enclose a list cut out from a newspaper showing the number of persons (amongst others) who have been committed for trial on the ground of taking part in riots. These persons have been committed for trial at the next sittings of the Supreme Court in February. I am inclined to think that the Crown will have difficulty in getting a jury to be unanimous in convicting these strikers. Secondly the Crown will be put to enormous expense in bringing special constables down from various parts of the North Island to give evidence. I think that unless there are exceptional circumstances involved that these strikers should be prosecuted under the summary jurisdiction of the Court. For instance under the summary jurisdiction there is power to charge a man with assault, for using offensive language, and thirdly he may be bound over to keep the peace. .... The Magistrate may require substantial sureties and unless such sureties are found the defendant may be committed to prison until he finds such sureties. Up to the present persons have been charged with taking part in a riot, an indictable offence. They have been committed for trial and bail has been fixed. In many cases I believe the accused persons have not been able to find bail and are therefore confined in prison. The same result would happen in a prosecution under the Justices of the

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concerning each of the four charges began on 12 November 1913 (see **The Dominion**, 13 November 1913, p.8, cols. 5-6).

<sup>27</sup> **The Evening Post**, 29 November 1913, p.5, col. 9 to p.6, col. 1; 05 December 1913, p.8, col. 1; and 09 December 1913, p.8, col. 1. (The quote is from the 09 December newspaper report).

<sup>28</sup> It should be noted that at least two of the plea bargains were influenced by extenuating circumstances affecting the accused. (See the discussion of the proceedings against Sydney Claridge and Agnes Udall on p.227 above).

Peace Act for a breach of the peace. I respectfully suggest therefore that the Police should be instructed to proceed against strikers under the summary jurisdiction of the Court unless the circumstances of the cases are sufficiently serious to warrant the offences being treated as indictable. I may add that I have put my view before the Solicitor-General and he concurs in the view which I have taken.<sup>29</sup>

The Police Commissioner instructed his officers on 03 December to 'Please act in all future cases as suggested by the Assistant Law Officer.'<sup>30</sup> In four cases resolved after 03 December (and probably in the fifth instance too) the rioting charge was only withdrawn after a conviction had been achieved on an alternative charge. Obtaining a conviction was the primary purpose of the chosen prosecution strategy. If the convicted person was unable to produce a required bond and sureties this was an added guarantee that the individual would not cause or take part in further strike related disorder.<sup>31</sup>

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<sup>29</sup> Memorandum from Crown Law Office to the Attorney General, 'Re Prosecution of Strikers', dated 27 November 1913, in file entitled 'Prosecution of Strikers: Advice of Crown Law Office', in 1913 Strike - Prosecution File (Archives New Zealand - AAAC, W3539 / 52f).

<sup>30</sup> Handwritten note from Commissioner Cullen to Superintendent Ellison, dated 03 December 1913. Written on the back of the first page of the typed memorandum 'Re Prosecution of Strikers', dated 27 November 1913 (AAAC, W3539 / 52f).

<sup>31</sup> For further discussion of the bonds required for strike related offences see pp.273-274 below.

**Table 14: Comparison of the Pleas of those Accused of Offences in Wellington During and in the Twenty-four and a Half Months Before the General Strike of 1913 - excluding private prosecutions <sup>32</sup>**

Type of Crime	During Strike		During Strike		Pre-Strike (01 Oct 1911 to 17 Oct 1913)	
	Strike Related No.	%	not Strike Related No.	%	No.	%
<b>All Violent Crime:</b>						
Pleaded Guilty	17	36.17%	22	61.11%	240	59.26%
Pleaded Not Guilty	29	61.70%	13	36.11%	141	34.81%
No Plea Recorded	1	2.13%	1	2.78%	24	5.93%
<b>All Other Crime Against State:</b>						
Pleaded Guilty	32	32.99%	31	64.58%	188	73.73%
Pleaded Not Guilty	47	48.45%	12	25.00%	59	23.14%
No Plea Recorded	18	18.56%	5	10.42%	8	3.14%
<b>All Crimes Prosecuted in Wellington: (excluding Theft)</b>						
Pleaded Guilty	49	34.03%	53	63.10%	428	64.85%
Pleaded Not Guilty	76	52.78%	25	29.76%	200	30.30%
No Plea Recorded	19	13.19%	6	7.14%	32	4.85%
Total:	144	100.00%	84	100.00%	660	100.00%
<b>All Theft:</b>						
Pleaded Guilty	-	-	63	74.12%	725	76.88%
Pleaded Not Guilty	-	-	17	20.00%	186	19.72%
No Plea Recorded	-	-	5	5.88%	32	3.39%

<sup>32</sup> To maintain comparability with all other tables and findings in this study the division between pre-strike and strike crime in all tables concerning pleas, verdicts and sentences has been made by the date of offence, not the date of prosecution or verdict. For the combined strike period figures see Appendix 7, section e). Private prosecutions have been excluded from Table 14 to focus the analysis on prosecutions by the police. In addition, none of the strike related charges were private prosecutions, and only four of the non-strike related charges (four assaults and zero larcenies) were not prosecuted by the police. Therefore, it is more statistically accurate to compare the strike period pleas with the equivalent police prosecutions in the pre-strike period. As previously noted none of the other crimes against the State are private prosecutions. The impact of private prosecutions on overall plea trends is, in any case, slight.

Further evidence that the police intensified their efforts at social control during the strike is generated by an analysis of the pleas of those accused of crime. There were major changes in the pleas of the accused between the two periods for both other crimes against the State and violent crime. Guilty pleas for other crimes against the State dropped from 73.73% in the pre-strike period to 32.99% for strike related offences, and not guilty pleas rose from 23.14% to 48.45% (or to 64.95% when the sixteen withdrawn charges for which no plea was recorded are included).<sup>33</sup> Pleas of guilty for violent crime decreased from 59.26% pre-strike to 36.17% strike related, with not guilty pleas increasing from 34.81% to 61.70%.<sup>34</sup> In contrast, the pleas for non-strike related violence, larceny and other anti-State offences were very similar to the pre-strike proportions (see Table 14, p.233).

These figures suggest that a significantly larger than normal proportion of prosecutions for crime against the State and violence were not seen as justified by those accused of committing these offences. From the viewpoint of the working class accused (and their sympathisers) many of these prosecutions must have appeared to be police persecution (particularly the charges against the strike leaders), or at least an excessive response to minor or technical infringements of the law.<sup>35</sup> Some offenders would not

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<sup>33</sup> When charges with juveniles as the accused are excluded the drop in the percentage of guilty pleas becomes marginally smaller (from 71.97% to 31.96%). Excluding private prosecutions is not necessary due to no private prosecutions being included in the other crime against the state category.

<sup>34</sup> Private prosecutions have been excluded from the above figures for the reasons listed in footnote 32 on p.233. When charges with juveniles as the accused are also excluded the drop in the proportion of guilty pleas becomes slightly smaller (from 57.82% to 36.17%).

<sup>35</sup> Consider the comments and criticisms in *New Zealand Truth*, 22 November 1913, p.5, cols. 7-8 (1st version of this issue on the microfilm); 29 November 1913, p.4, col. 5 (1st version on microfilm); 06 December 1913, p.6, col. 5 (1st version on microfilm); 06 December 1913, p.6, col. 1 (2nd version on microfilm); and 13

perceive certain actions to be problematic, which the law and the police defined as criminal.<sup>36</sup> For example, calling out "scab" to special constables (which was prosecuted as insulting language with intent to provoke a breach of the peace), the use of obscene language against Arbitrationists or specials, loitering in a public place, or fiery rhetoric during strike speeches. Not all those accused of such offences pleaded not guilty, but most of those who admitted certain actions (along with those who denied the charges) would probably have considered their prosecution as pedantic or ridiculous, at best, if not repressive as well.

A related problem was mistaken identity. An actual offence had been committed but there was some doubt if the offender had been apprehended, or rather someone else who had happened to be near the offender at the time of the incident, or who resembled the offender. Two prosecutions were dismissed, one withdrawn, and juries refused to convict three accused (John Edward Harrington and Alexander Churchman were acquitted, and multiple juries were unable to agree on a verdict on the charge against Robert Hill) for this reason.<sup>37</sup> A defence of mistaken identity was unsuccessful in at least six

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December 1913, p.4, cols. 4-5 and 6 (1st version on microfilm). Also see the reports of resolutions passed at trade union meetings protesting the arrest of the strike leaders (for example, in **The Evening Post**, 12 November 1913, p.8, col. 6 {Port Chalmers Marine Labourers' Union}; and 13 November 1913, p.3, col. 7 {strikers in Westport}), and comments on the same arrests made at strikers' meetings in Wellington (for example, in **The Dominion**, 14 November 1913, p.9, cols. 4 and 5; and 15 November 1913, p.6, col. 6). An 'indignation meeting' to be held in Wellington 'of strikers and trade unionists to protest against the arrest of' the strike leaders was advertised in **The Evening Post**, 13 November 1913, p.8, col. 4. Also see the comments made by Peter Fraser on the arrest of himself and other strike leaders (**The Maoriland Worker**, 10 December 1913, p.1, col. 1 - as quoted on p.281 of the current chapter).

<sup>36</sup> See Davis, 'Prosecutions and Their Context: The Use of the Criminal Law in Later Nineteenth-Century London', pp.399, 413-414, 418, 421, 422 and 423.

<sup>37</sup> See **The Dominion**, 25 November 1913, p.9, col. 4; 09 December 1913, p.8, col. 8; 04 February 1914, p.5, cols. 1-2; 05 February 1914, p.9, col. 4; 07 February 1914, p.6, col. 3; 10 February 1914, p.9, col. 4; 11 February 1914, p.8, col. 6; 15 May

other cases. Concerning three of these prosecutions defence lawyers argued their clients had not been anywhere near the disturbance in question, and the accused must only bear a resemblance to the offender.<sup>38</sup>

Whether or not any of these prosecutions were, in addition, malicious or repressive is unclear. The opportunity for suppressing dissent or obtaining personal revenge for insults or abuse was available through arrest and prosecution. It was also relatively easy for evidence to be fabricated or exaggerated when only personal testimony was involved, and cases were decided upon the word of the arresting constable (regular or special) against the word of the accused.<sup>39</sup>

If such abuses of police power took place is less certain. *New Zealand Truth* argued that some special constables were less than truthful in their testimony, and Richard Hill has concluded that 'when magistrates accepted the word of "cockatoo constables" over others, there were undoubtedly some miscarriages of justice.'<sup>40</sup> In defence of the prosecution witnesses it was possible they sometimes misheard shouted comments or genuinely, if mistakenly, believed that the accused was the person who had committed the

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1914, p.5, col. 2; and *The New Zealand Times*, 08 December 1913, p.8, col. 4. Also see pp.225, 229 and 254-255 in the current chapter for detailed discussions of some of these cases. Concerning the case of Robert Hill also see *The Evening Post*, 13 November 1913, p.3, col. 3; and *The New Zealand Times*, 13 November 1913, p.7, cols. 3-4; and 18 May 1914, p.8, col. 5.

<sup>38</sup> See *The Evening Post*, 09 December 1913, p.7, col. 9 and p.8, col. 1; *The Dominion*, 18 November 1913, p.9, col. 2; 27 November 1913, p.9, cols. 2-3; 28 November 1913, p.9, col. 3; and 04 December 1913, p.9, col. 8.

<sup>39</sup> For a very useful study of malicious prosecutions see Douglas Hay, 'Prosecution and Power: Malicious Prosecution in the English Courts 1750-1850', in Douglas Hay and Francis Snyder (eds), *Policing and Prosecution in Britain 1750-1850*, (Oxford: Clarendon Press, 1989), pp.343-395. (Hay's article focuses upon private prosecutions rather than police prosecutions).

<sup>40</sup> For the relevant *New Zealand Truth* articles see footnote 2 (p.218) in this chapter. Hill's conclusion is from Hill, *The Iron Hand in the Velvet Glove*, p.311.

offence. Magistrates in Wellington and Auckland also stated during three separate strike related hearings that they believed the accused and some of the defence witnesses had deliberately given false evidence in court.<sup>41</sup>

The most accurate conclusion which can be reached is that the police intensified their efforts to arrest and prosecute offenders during the strike, and, at least occasionally, mistakenly arrested the wrong person. A large proportion of the arrests could be interpreted as repressive, and some as malicious, by those inclined to do so, for the variety of reasons already discussed, but in the majority of the controversial cases the problematic actions were illegal under New Zealand law, or the offence being prosecuted was committed by someone, if not necessarily by the accused.

Not all offences, however, were used to “crackdown” on offending or suppress dissent. Charges of resisting arrest and obstruction were not frequent in either period. In the two month strike period only seven cases of resisting arrest and two of obstruction were brought before the courts (none of which were strike related). The pre-strike monthly average for resisting arrest was a slightly lower 1.88, with the number of charges for a particular month varying from zero to seven.<sup>42</sup> For obstruction the pre-strike monthly average of 0.78 charges was almost identical to the strike period rate.<sup>43</sup>

There was also no increase in the level of drunkenness convictions in the strike period. The monthly average for the strike was 182, which was

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<sup>41</sup> See pp.206-211 in Chapter Five. Also see **The Press**, 01 December 1913, p.8, cols. 3-4.

<sup>42</sup> The pre-strike peaks for resisting arrest offences were December 1911 (seven charges), November 1912 (seven charges), and September 1912 (four charges).

<sup>43</sup> The range of pre-strike monthly variation for obstruction was from zero to three offences in a particular month.

slightly lower than the 221 per month in the preceding two years.<sup>44</sup> It is clear that there was not a universal "control response" by the police against all types of criminal activity during the strike.

Nor was every opportunity to arrest and prosecute strikers and their sympathisers utilised by the police. The Chief Justice (Sir Robert Stout) publicly criticised the police authorities for the small number of arrests made in connection with the rioting of 05 November. During the trial of an alleged rioter on 04 February 1914 Stout commented that 'he could not see why on the day of the Featherston Street riot, some 50 or 60 persons were not arrested, instead of only five or six.'<sup>45</sup> An editorial in *The Dominion* was similarly critical of no arrests having been made during the riot near the Mount Cook Barracks on the evening of 03 November.<sup>46</sup> This evidence suggests that the arrest and prosecution of all identifiable offenders was not part of the policing strategy chosen to control strike related disorder (at least during this phase of the strike).

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<sup>44</sup> The number of drunkenness convictions have been gathered from the Criminal Record Books. The range of pre-strike monthly variation for drunkenness convictions was from a low of 162 in November 1911 to a high of 331 in October 1912. For a complete list of the monthly totals for drunkenness convictions see Appendix 12.

<sup>45</sup> As reported in **The Dominion**, 05 February 1914, p.9, col. 4. In all, eight persons were charged with having taken part in a riot or an unlawful assembly on 05 November. Five of these accused were arrested on the day of the riot, the others were arrested between 13 and 20 November.

<sup>46</sup> **The Dominion**, 04 November 1913, p.6, cols. 5-6. The editorial argued that 'many arrests might have been made and a wholesome lesson taught the rioters' if a larger force of mounted special constables had been called out to disperse the crowd. Only one person was ever prosecuted concerning this riot. James Patrick Hassett was arrested on 08 November 1913 and charged with taking part in a riot and with the attempted murder of the Commissioner of Police (as well as with assaulting a special constable after being arrested). A Supreme Court jury acquitted Hassett of the attempted murder charge, but convicted him of rioting and he received two years imprisonment. (See **The Dominion**, 10 November 1913, p.8, col. 3; 11 November 1913, p.8, col. 8; 06 February 1914, p.5, cols. 1-3; and 09 February 1914, p.3, col. 4; and Hill, **The Iron Hand in the Velvet Glove**, p.312).



Several contributing factors appear to explain the small number of arrests during the mass disturbances between 24 October and 05 November 1913. First, by not making arrests the police were trying to avoid further escalating a particular disturbance. Second, those policemen at the scene of a riot considered the risk to themselves (especially of serious physical injury) of trying to make arrests prohibitively high. Thirdly, the police realised that the arrested persons would only be rescued by the crowd anyway and escape prosecution (as happened, temporarily, in at least two strike related prosecutions). For example, consider testimony given by regular Constable McGowan concerning the disturbance on the night of 29 October. Twenty-four mounted special constables had arrived in Wellington. They were escorted to the police station by a number of uniformed police, including Constable McGowan. The group were followed by a crowd of men using filthy language and throwing stones. Several of the specials were hit, but none were seriously hurt. On 04 February 1914 Thomas Acland, a waterside worker who had been on strike on 29 October, was on trial in the Supreme Court for taking part in this 'riot' and for using obscene language. In reply to a question from the defence lawyer Constable McGowan stated 'He did not think it would have been wise to attempt to arrest the accused then, because the force of police was small, and he knew there could be no doubt about the identity of the accused if he were [sic] wanted later. About ten days later he pointed the man out to Detective Cassells.'<sup>47</sup>

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<sup>47</sup> **The Dominion**, 05 February 1914, p.9, cols. 4-5 (the quote is from col. 5). Concerning the escapes from arrest see **The Dominion**, 18 November 1913, p.9, col. 2; and 10 December 1913, p.6, col. 5.

Another factor may have been that senior police officers, and perhaps certain Ministers in the Massey government, preferred that the rioters and disorderly groups were physically “charged” into submission by the mounted special constables rather than being arrested and prosecuted.<sup>48</sup> Such a policy would have been less expensive in the long run and possibly more effective. The state would have had to pay the upkeep of every rioter who was imprisoned. There were the substantial costs involved in Supreme Court trials if the accused pleaded not guilty of rioting.<sup>49</sup> In addition, the more quickly the disorderly crowds were dissuaded from violence and the ports were reopened (whether by the formation of new Arbitration unions or by the strikers agreeing to return to work) the less impact the strike would have on the New Zealand economy and government tax revenue. Once the strike had

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<sup>48</sup> Richard Hill, **The Iron Hand in the Velvet Glove**, pp.308-309 and 313-314, presented a related argument concerning Police ‘Commissioner Cullen’s apparently reckless tactic of exposing specials to the strikers and their allies without sufficient backup.’ Hill suggested that Cullen hoped these tactics would provoke attacks on the specials. Such attacks could be used to justify the enrolment and presence in Wellington of the special constables and encourage more men to volunteer. When appropriate the attacks could be responded to with mounted charges and the swinging of batons in an attempt to dissuade “would-be rioters” from further violence. Concerning the march of 800 mounted specials from the Mount Cook barracks to the railway station on 05 November and the ensuing Featherston Street riot Hill wrote: ‘Yet again [Colonel] Heard was puzzled by Cullen’s tactics: the specials marched in a huge column through busy streets, “assailed by a multitude of strikers and strike sympathisers”. The rear of the column was especially vulnerable to attack from projectiles .... The rear contingents’ patience snapped, and they charged into the crowd again and again; “many skirmishes took place, the chief weapons being batons on the one side and road metal on the other”. .... Once again, the battles went on longer than usual because members of the crowd were able to throw things from positions where they could not be reached by mounted men. Cullen meanwhile kept the foot specials under cover nearby, ensuring the continuation of riot ....’ (The first quote is from p.308; the remaining two quotes are both from p.313).

<sup>49</sup> On the substantial costs of Supreme Court trials for those accused of rioting see Memorandum from Crown Law Office to the Attorney General, ‘Re Prosecution of Strikers’, dated 27 November 1913, in file entitled ‘Prosecution of Strikers: Advice of Crown Law Office’, in 1913 Strike - Prosecution File (Archives New Zealand - AAAC, W3539 / 52f). (As quoted on pp.231-232 of the current chapter).

ended expenditure on extra policing associated with the dispute would also cease.<sup>50</sup>

Sympathy for the strikers by some regular police could have caused them to overlook some strike related offences. Richard Hill argued that there were 'some occasions when individual policemen sympathised with the strikers, or at the very least refrained from interfering with them in the absence of any *serious* breach of law.'<sup>51</sup> Wellington Police Inspector 'Ellison believed that some of his men, including an NCO, had "shirked their work" during the Battle of Featherston Street by refusing to arrest rioters on the spot.'<sup>52</sup> A relatively small number of regular police acting out of sympathy with the strikers, however, would only be a small part of the explanation for why there were so few arrests during disturbances.

In at least two instances the Wellington police chose not to arrest strike leaders for the provocative statements in their speeches. On 20 November 1913 the Crown solicitor, H. H. Ostler, wrote to the Attorney General concerning the charges the police were considering laying against Pat Hickey and W. T. Mills.

I have shown the two newspaper cuttings which I submitted to you this afternoon to the Solicitor-General. In his opinion neither of the statements are sufficient to warrant a prosecution for sedition. In the case of Hickey he points out that the speech was made before the other strike leaders were arrested, and Hickey's arrest at this stage for that speech would look like an afterthought on the part of the Crown. In any case he thinks the statements

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<sup>50</sup> On the cost of extra policing associated with the 1913 strike see Hill, **The Iron Hand in the Velvet Glove**, pp.317, 318 and 322; '1913 Strike - North Island File' held at Archives New Zealand, Wellington (AAAC, W3539 / 52b); and '1913 Strike - Claims For Supplies File' held at Archives New Zealand, Wellington (AAAC, W3539 / 52a).

<sup>51</sup> Hill, **The Iron Hand in the Velvet Glove**, p.320. Italics as in the original.

are sufficiently ambiguous to make it doubtful whether the prosecution would be successful. In regard to Mills' case he is of the opinion that the words I have pointed out to you are not strong enough to warrant a prosecution.<sup>53</sup>

Ostler added that he had 'instructed Detective Cassells to keep his ears open for any future seditious speeches by Farland, Hickey, or Mills, and the other detectives are also doing so independently'.<sup>54</sup> None of these three labour leaders were prosecuted for comments made in their 1913 strike speeches, though W. T. Mills was brought before the Christchurch Magistrate's Court on 03 December for 'holding a meeting on the Sumner esplanade, so as to impede persons passing' on 26 November. The case was dismissed.<sup>55</sup>

The decisions not to prosecute Hickey and Mills would seem perplexing if the main intention of the Wellington prosecutors in arresting strike leaders was to weaken the strike. Magistrate Riddell on 12 and 19 November had already set the precedent of refusing bail on summary charges related to strike speeches.<sup>56</sup> It is extremely unlikely that he would have acted differently concerning Hickey and Mills. Their prosecution would ensure their detention in Wellington prison for a minimum of one week and probably longer. (On 19 November the speech related cases against the six arrested leaders had been remanded to 28 November.<sup>57</sup> Any speech charges

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<sup>52</sup> Hill, *The Iron Hand in the Velvet Glove*, p.320.

<sup>53</sup> 'Memo for The Hon. the Attorney-General', 'Re. Hickey and Mills', dated 20 November 1913, in 1913 Strike - Prosecution File (Archives New Zealand - AAAC, W3539 / 52f).

<sup>54</sup> 'Memo ... Re. Hickey and Mills', dated 20 November 1913.

<sup>55</sup> *The Press*, 04 December 1913, p.8, cols. 4-5. *The Dominion*, 04 December 1913, p.8, col. 3 described the offence as 'holding a public meeting at Sumner, so as to obstruct traffic'; and see *The Dominion*, 03 December 1913, p.9, col. 2.

<sup>56</sup> See pp.280-283 below in this chapter.

<sup>57</sup> *The Dominion*, 20 November 1913, p.9, cols. 4-5.

against Hickey and Mills would not have been dealt with before 28 November, unless they had pleaded guilty).

That prosecutions were not initiated provides evidence that the police and Crown prosecutors were not willing to arrest labour leaders unless an actual offence (as defined by the criminal law) had been committed, and they were reasonably certain of obtaining a conviction. It is possible that six of the strike leaders already being in gaol on remand influenced the Hickey and Mills decisions (additional arrests may have seemed less necessary or less urgent). Each of the six arrested leaders, however, eventually consented to being bound over to keep the peace or were convicted by a magistrate or jury.<sup>58</sup> This suggests that the criteria the police used to determine which of the strike speakers they would prosecute was not substantially different on 11 November (when the first strike leaders were arrested) than on 20 November.

Evidence that some special constables displayed considerable tolerance of abuse directed towards them is provided by testimony given during the prosecution of William Robertson on 19 November. Robertson was charged with having used obscene language and assaulting special constable Herbert Edward Rogers. 'Evidence was given that the accused had followed the "specials" down the road abusing them. He was allowed considerable latitude, but upon his picking up a piece of wood, witness [special constable Rogers] went to arrest him. While being taken into custody the accused struck witness with his improvised baton. Asked whether he wished to make a statement, the accused said: "I can't. I was too jolly well

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<sup>58</sup> On the arrests, remands without bail, and outcomes of the cases against the six strike leaders see pp.230, 256, 258-259, 271, 273-274, 280-283 and 285 in the current chapter and also see Chapter Five, pp.143, 153, 162, 204-206 and 215-216.

drunk.”<sup>59</sup> The first opportunity to remove this supporter of the strike from the streets of Wellington was not made use of by special constable Rogers, and it appears that only when violence was threatened was Robertson arrested.

Maximising the number of charges against strikers and sympathisers who were brought before the Court was also not a strategy utilised by the police. At least three of those prosecuted for strike related offences resisted arrest when they were apprehended, but were not charged with resisting arrest. For example, Constable Longbottom stated in court that Archibald Campbell had ‘violently resisted’ when arrested on 04 November. Campbell was prosecuted for taking part in a riot and for being a rogue and a vagabond in that he was found by night with an offensive weapon. No charge of resisting arrest was laid.<sup>60</sup> A man, alleged to have been William Williams, resisted Detective Andrews’s attempts to arrest him on 06 November, and with the assistance of a crowd managed to escape. Williams, a watersider on strike, was only (re)arrested three weeks later. He was charged with and convicted of assaulting certain mounted special constables. This was the offence which initiated the unsuccessful arrest. Williams claimed he was minding his baby at the time of the incident. Detective Andrews and regular Constable

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<sup>59</sup> **The Evening Post**, 19 November 1913, p.7, col. 9. For the name of the assaulted special constable see **The Dominion**, 20 November 1913, p.9, col. 6. The date of the offences was 18 November. Compare **The Evening Post**’s (20 November 1913, p.8, col. 2) interpretation of events during the journey of hundreds of foot and mounted special constables from the wharves to Mount Cook Barracks at the end of the day’s work on 19 November: ‘A bystander who called the specials “scabs” was next summarily dealt with, being caught and handed over to the regular police. These were only small incidents in their way, but, combined with the altered if sullen demeanour of the rougher class of onlookers, they show that the special constables are now in no mood to be tampered with, nor to put up with the abuse to which for a long time past they have been subjected. If they will not stand epithets they certainly will not stand stones and sticks without giving as good as they get, and that with interest.’

Longbottom were certain Williams was the offender. Magistrate Riddell 'held that on the evidence the accused must be convicted.' The efforts at resisting arrest and calling upon the crowd to help him escape were never prosecuted.<sup>61</sup>

Prior to the strike, and concerning much less serious criminal acts, it was not unusual for one individual to face three or four charges, including resisting arrest, in regard to one series of related incidents. The usual pattern and sequence of events began with an arrest being made for drunkenness, disorderly behaviour while drunk, or obscene language. The accused violently resisted arrest (either immediately or on the way to the police station), and in the process damaged the policeman's uniform, damaged the taxi-cab which was transporting the offender and policeman to the police station, assaulted the policeman, used obscene language, or a combination of these actions. The next morning the accused appeared before a magistrate and was convicted on a variety of charges involving drunkenness, resisting arrest, property damage, assault and obscene language. The court proceedings against John Henderson on 27 December 1911 are illustrative.

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<sup>60</sup> **The New Zealand Times**, 13 November 1913, p.7, col. 4. For more details on Campbell's prosecution also see p.178 in Chapter Five.

<sup>61</sup> **The Dominion**, 10 December 1913, p.6, col. 5; **The Evening Post**, 09 December 1913, p.7, col. 9; and **The New Zealand Times**, 28 November 1913, p.8, col. 4. (The quote is from **The Evening Post**, 09 December 1913, p.7, col. 9). Concerning the third unprosecuted resisting arrest incident see **The New Zealand Times**, 13 November 1913, p.7, col. 3; and **The Dominion**, 07 February 1914, p.6, col. 3. In another two cases it is less clear if the actions of the accused warranted a prosecution for resisting arrest, but it may have been possible for such a charge to be laid. Neither accused was prosecuted for resisting arrest. (See **The Dominion**, 18 November 1913, p.9, col. 2; and 22 November 1913, p.6, col. 8).

Henderson was charged with and convicted of drunkenness, resisting arrest, damaging a constable's uniform, and smashing six taxi-cab windows.<sup>62</sup>

Adding an extra charge to a charge list reduced the chance that an accused would leave court without a conviction. Resisting arrest was a relatively easy charge to prove (the testimony of the arresting constable was almost always sufficient evidence), and had an extremely high conviction rate. In the two years before the strike (01 October 1911 to 17 October 1913) all 46 prosecutions for resisting arrest resulted in convictions.<sup>63</sup> In addition, a successful prosecution for resisting arrest maximised the penalties the accused would receive. An extra conviction was especially effective if fines were imposed and the accused was able to pay the fines. (Fines were cumulative, but multiple sentences of imprisonment in default were usually allowed to run concurrently, as were one sentence of mandatory imprisonment and one or more sentence(s) of a fine or prison in default).<sup>64</sup> The legal requirement that a person could not be convicted twice for one action should not have been an issue for the prosecutor. Resisting arrest was distinct from the accused's other problematic behaviour which was the basis of the charge(s) which were laid.

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<sup>62</sup> **The Dominion**, 28 December 1911, p.2, col. 8. For similar examples see **The Dominion**, 10 February 1912, p.15, col. 4; 22 October 1912, p.3, cols. 4-5; 03 September 1913, p.5, col. 4; **The New Zealand Times**, 28 June 1913, p.2, col. 6; 24 September 1913, p.6, col. 7; **New Zealand Police Gazette**, 1912, pp.314, 497, 607 and 627; and **New Zealand Police Gazette**, 1913, pp.37, 437 and 509.

<sup>63</sup> In nine of these cases (19.57%) the accused pleaded not guilty. In the other 37 cases a plea of guilty was entered.

<sup>64</sup> For examples see **New Zealand Police Gazette**, 1911, p.601; 1912, pp.524 and 597; 1913, pp.254, 376, 405, 509 and 717; and 1914, pp.25 and 49. Compare the dates tried with the dates of release for the cases in which two or more sentences were given to one accused and one of these sentences was the option of paying a fine or going to gaol.



That the police were reasonably lenient in their treatment of Arbitrationists is suggested by a report in *The Evening Post* on 06 December.

This morning one of the men who had been unloading coal from the Katoa came on to the Railway Wharf and commenced an altercation with another worker. Losing control of his temper he whipped off his coat and assumed a menacing attitude, whereupon the man he was arguing with hit him with a broom handle. The sequel was the arrest on a charge of insobriety of the man who started the disturbance.<sup>65</sup>

The police could have chosen to lay a second charge against the accused of threatening behaviour with intent to provoke a breach of the peace or threatening behaviour causing a breach of the peace. Only the drunkenness offence was prosecuted. The accused pleaded guilty and was convicted and discharged without a fine.<sup>66</sup>

No other Arbitrationists were identified in the newspaper reports as defendants in Wellington criminal cases. It is probable that more than one of the 364 drunkenness prosecutions during the strike involved Arbitrationists. The newspaper reports rarely provided occupation details on those accused of drunkenness, unless other offences had been committed. The lack of known Arbitrationists appearing before the court on charges more serious than drunkenness indicates that policing of the behaviour of Arbitrationists was less strict than either the policing of the "disorderly" actions of strikers and their sympathisers, or of "regular" non-strike related rowdy behaviour.<sup>67</sup> It

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<sup>65</sup> **The Evening Post**, 06 December 1913, p.6, col. 4.

<sup>66</sup> Wellington Magistrate's Court Criminal Record Book, no. 83, December 1913, prosecution no. 6361.

<sup>67</sup> Campbell, 'The Role of the Police in the Waihi Strike', p.38, notes a similar trend in the policing of the Waihi Strike of 1912: 'While assaults and language offences committed by the Federationists [the strikers] are described in lurid detail through the police files on the strike, offences by arbitrationists are referred to rather

seems extremely unlikely there were no fights among the Arbitrationists or instances of obscene language being used to a constable by a drunken Arbitrationist which would have resulted in prosecution under normal circumstances.

The overall conclusion reached from the data presented above is that the police intensified their efforts to control certain types of offences, in particular, socially threatening “crimes” associated with the strike. Many of the offences were very serious and would have warranted police attention in more tranquil times. Other prosecutions, especially those related to offensive language, insulting words with intent to provoke a breach of the peace, and the single loitering charge, concerned incidents which would have often been overlooked or an informal warning given before the strike.<sup>68</sup> This focus had a significant impact on the criminal prosecutions of the Strike.

Certain social groups predominated among the accused, strikers and other unskilled workers, but as these were the groups most active in strike related disturbances this is neither unexpected nor evidence of attempts to suppress legitimate (if rowdy) protest. The determination of the police to suppress violence and rioting is apparent, as is the extremely firm response to offensive and insulting language. The latter could be interpreted as

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lightly. On November 10 [1912 Police Commissioner] Cullen telegraphed [Minister of Justice] Herdman, “... a number of the most obnoxious women belonging to the strikers got rotten eggs going home and one window in a shop where the owner exhibited very offensive paragraphs relating to police, mine owners and workers was smashed some time during the night.”’.

<sup>68</sup> On the use of police discretion not to prosecute law-breaking behaviour by members of the working class, including by utilising informal sanctions and warnings instead, see Davis, ‘Prosecutions and Their Context: The Use of the Criminal Law in Later Nineteenth-Century London’, pp.399-401, 420, 422, 424 and 425. For a New Zealand perspective see Dunstall, *A Policeman’s Paradise?*, p.4.

repressive, but such language was illegal in public places as well as being provocative and having the potential to incite further disorder.

In at least a few instances the wrong person was arrested and prosecuted. In the confusion, excitement and tension associated with large, rowdy, and hostile crowds such mistakes are not unexpected. It is almost surprising that more cases were not withdrawn or dismissed for this reason. An element of repression or anger at being attacked or verbally abused may have been influential in some of the problematic arrests, but this is impossible to conclusively prove.

The police displayed a surprising degree of restraint in making arrests. Except for desertion and related offences by seamen and ship's firemen, and the November charges against six strike leaders, there were none of the mass arrests and mass prosecutions which were so central a part of the police response to the Waihi Strike of 1912. R. J. Campbell has usefully summarised the relevant Waihi prosecutions.

Large numbers of arrests and trials began during September [1912]. On September 11, 18 men (all Federationists) were charged with conduct tending to provoke a breach of the peace. Fourteen of them were convicted, four bound over to keep the peace for 12 months, and the remainder ordered to find sureties to keep the peace for 12 months. All of this last group refused to find sureties and went to gaol instead. On September 14, eight men were charged (including one arbitrationist) with various offences. In the rest of September, 37 more men were charged with various offences arising out of the strike, all but one of them Federationists. Every one of the Federationists ordered to find sureties elected to go to gaol. Thus, by September 20, the police had managed to imprison 45 of the most active members of the Federationist union.<sup>69</sup>

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<sup>69</sup> Campbell, 'The Role of the Police in the Waihi Strike', p.37. **New Zealand Police Gazette**, 1912, pp.645-648 records the release from Auckland Prison on 13 and

Campbell notes that 'in all, 72 strikers came before the Court'.<sup>70</sup> In relation to the entire two months of the 1913 strike in Wellington only 94 individuals were prosecuted for strike related offences (excluding the desertion and similar charges).<sup>71</sup> Somewhere between 37 and 77 of these Wellington accused were strikers.<sup>72</sup>

The eighteen Waihi strikers charged on 11 September 1912 were each prosecuted in connection with the same incident of intimidation. Benjamin Sheard, president of the recently formed (arbitrationist) Engine Drivers' Union, had been followed and jostled by a crowd numbering about 200. The defendants included the president (William E. Parry) and vice-president (W. McLennan) of the striking miners' union.<sup>73</sup> Sizeable numbers of defendants appeared in the Wellington Magistrate's Court each day to answer charges related to the 1913 strike, but it was rare for more than one or two individuals to be charged concerning a particular disorderly incident. In the few instances where more than two persons were charged (for example, the Royal Tiger Hotel riot, the Featherston Street riot, and the Post and Telegraph Stores riot) the number of prosecutions were much lower than they could have been had

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14 November 1912 of 66 miners who were convicted at Waihi and ordered to find sureties or spend twelve months in gaol. These miners were released because the required sureties had been provided.

<sup>70</sup> Campbell, 'The Role of the Police in the Waihi Strike', p.37, footnote 20.

<sup>71</sup> On desertion and related prosecutions see pp.180-186 in Chapter Five. Due to no cases of desertion or similar offences being prosecuted at Waihi, and because such offences were very different to any of the Waihi prosecutions and to all the non-desertion or similar Wellington strike related prosecutions, desertion and similar offences have been excluded from the above comparison.

<sup>72</sup> See Chapter Five, p.168. The maximum above of 77 includes two women who were probably the wives or sisters of striking waterside workers.

<sup>73</sup> **The Dominion**, 12 September 1912, p.5, col. 8.

the police chosen to arrest every person whom they saw commit an offence, or for whom witnesses were willing to provide testimony for the prosecution.<sup>74</sup>

The following section of this chapter will examine the next stage of the legal process: the verdicts reached and sentences handed down by the judiciary of Wellington.

### **The Judicial Response to Disorder, Protest, and the Threat of Disorder**

Less tolerance, less leniency, more convictions, larger fines and longer terms of imprisonment were the reaction of many judiciaries to periods of social conflict, civil disorder, and heightened social tensions. These actions were attempts to control disorder and deter further offending. Instances of individual members of the elite using their judicial powers for the benefit of themselves and fellow members of the ruling class at the expense of subordinate groups, are also relatively common throughout the social history of crime and the criminal law (as demonstrated in Chapter Four). The response of the Wellington judiciary to disorder, protest, and the threat of further disorder in late 1913 shall be determined using an analysis of first, conviction rates, and secondly, the severity of sentences. In addition, a number of intriguing judicial decisions relating to strike related jury trials will be commented upon, as will some of the decisions concerning bail applications and the amounts required for bail.

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<sup>74</sup> See pp.238-241 and 243-244 in the current chapter, and pp.178-179 in Chapter Five.

**Table 15: Comparison of the Rates of Conviction For Decisions Made By Magistrates (due to accused pleading not guilty) <sup>75</sup>**

**(For Crimes Committed in Wellington During and in the Twenty-four and a Half Months Before the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court)**

<b>Decision Made By Magistrate (accused pleaded not guilty)</b>				
<b>a) Violent Crime</b>	<b>Convicted</b>	<b>Not Convicted</b>	<b>Total</b>	<b>As % of All Similar Charges</b>
<b>i) 18 October 1913 to 20 December 1913:</b>				
Strike Related	22 95.65%	1 4.35%	23 100.00%	48.94% (of 47)
<b>no private prosecutions or cases with juveniles as the accused</b>				
Not Strike Related (all)	13 92.86%	1 7.14%	14 100.00%	35.00% (of 40)
<b>excluding private prosecutions and excluding juvenile accused</b>	10 90.91%	1 9.09%	11 100.00%	36.67% (of 30)
<b>ii) 01 October 1911 to 17 October 1913:</b>				
Pre-Strike (all)	121 80.67%	29 19.33%	150 100.00%	29.82% (of 503)
<b>excluding private prosecutions and excluding juvenile accused</b>	89 89.00%	11 11.00%	100 100.00%	29.50% (of 339)
<b>b) Other Crime Against the State:</b>				
	<b>Convicted</b>	<b>Not Convicted</b>	<b>Total</b>	<b>As % of All Similar Charges</b>
<b>i) 18 October 1913 to 20 December 1913:</b>				
Strike Related	22 81.48%	5 18.52%	27 100.00%	27.84% (of 97)
<b>no private prosecutions or cases with juveniles as the accused</b>				
Not Strike Related (all)	12 100.00%	- 0.00%	12 100.00%	25.00% (of 48)
<b>excluding juvenile accused and no private prosecutions</b>	12 100.00%	- 0.00%	12 100.00%	27.91% (of 43)
<b>ii) 01 October 1911 to 17 October 1913:</b>				
Pre-Strike (all)	58 100.00%	- 0.00%	58 100.00%	22.75% (of 255)
<b>excluding juvenile accused and no private prosecutions</b>	58 100.00%	- 0.00%	58 100.00%	24.27% (of 239)

<sup>75</sup> Cases where the accused pleaded not guilty and then the charge was withdrawn are not included in the Decisions Made by Magistrates figures.

**Table 15 (continued): Comparison of the Rates of Conviction For Decisions Made By Magistrates (due to accused pleading not guilty)**

<b>Decision Made By Magistrate (accused pleaded not guilty)</b>				
<b>c) Theft:</b>	<b>Convicted</b>	<b>Not Convicted</b>	<b>Total</b>	<b>As % of All Similar Charges</b>
i) 18 October 1913 to 20 December 1913:				
Strike Related	none	none		
Non-Strike Related (all)	12 70.59%	5 29.41%	17 100.00%	20.00% (of 85)
<b>excluding juvenile accused and no private prosecutions</b>	12 70.59%	5 29.41%	17 100.00%	22.08% (of 77)
ii) 01 October 1911 to 17 October 1913:				
Pre-Strike (all)	108 78.83%	29 21.17%	137 100.00%	14.21% (of 964)
<b>excluding private prosecutions and excluding juvenile accused</b>	91 84.26%	17 15.74%	108 100.00%	15.13% (of 714)

The impact of the strike on conviction rates for violent crime and larceny was negligible. The only cases in which guilt or innocence was directly decided by the judiciary were those which did not require a jury trial and where the accused pleaded not guilty. In these cases (usually decided by a single stipendary magistrate) there was little difference in the percentage of convictions between the strike and pre-strike periods (see Table 15). The decision made by magistrate conviction rates for both strike related (95.65%) and non-strike related violence (92.86%) during the strike appear significantly higher than the pre-strike rate (80.67%). However, when private prosecutions and charges against juveniles are excluded, the pre-strike conviction rate (now directly comparable to the strike related prosecutions) rises to 89 per

cent.<sup>76</sup> This figure is very similar to both of the strike rates, especially when the small size of the strike samples is considered (the difference between the pre-strike and strike rates is only one or two strike charges). Larceny conviction rates fell during the strike (from 78.83% to 70.59%).<sup>77</sup>

The percentage of convictions for strike related other crimes against the State (81.48%) was considerably lower than either the pre-strike period (100%) or the rate for non-strike related offences during the strike (100%).<sup>78</sup> Five such strike related cases were dismissed: three charges of insulting words with intent to provoke a breach of the peace, one obscene language charge, and one inciting diverse persons to resist constables. The four insulting or obscene language cases were dismissed because of insufficient or conflicting evidence which left considerable doubt if the alleged problematic language had actually been used or that the accused had been the actual offender. For example, Ernest Hackett was charged with insulting words with intent to provoke a breach of the peace for using on 15 November the phrase "Get out, you dirty scab" to 'a member of the arbitration union of waterside workers'. 'The informant gave evidence as to the words having been used, but he could not swear that Hackett was the man who had made use of the

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<sup>76</sup> None of the strike related violence charges were private prosecutions or involved juveniles as the accused. Excluding such charges from the pre-strike data allows a more accurate comparison to be made with the strike related prosecutions.

<sup>77</sup> There were no strike related larceny prosecutions. When private prosecutions and charges with juveniles as the accused are excluded the drop in the conviction rate becomes slightly larger (from 84.26% to 70.59%).

<sup>78</sup> Private prosecutions are by definition not included in this category (see Chapter Two, pp.41-42, especially footnote 2). The number and proportion of convictions are not changed by the exclusion of juvenile accused (see Table 15). Controlling for strike related cases which were prosecuted a week or more after the strike ended has only a slight effect on the conviction rate. One charge, which was dismissed, is excluded. The relevant conviction rate becomes 84.62 per cent (22 of 26 charges).



expression. Another witness called was also uncertain. His Worship [Magistrate Riddell] dismissed the information.<sup>79</sup>

Concerning a separate incident William George Renouf, a wharf labourer on strike, was also accused of insulting words with intent to provoke a breach of the peace. It was alleged that on 19 November Renouf had called out "You dirty b\*\*\*\*\* scabs" to a group of mounted special constables as they rode past the section of the crowd he was standing in. Two prosecution witnesses, both special constables, testified that they were certain the accused had uttered the words. Five defence witnesses then gave rebutting evidence stating that it was a man standing near Renouf who had called out. ' "It is a very suspicious case", said His Worship [Magistrate Riddell]. "It seems to be that everyone has given his evidence fairly, although it was conflicting in regard to details. Defendant must have the benefit of the doubt, and the information will be dismissed."<sup>80</sup> None of the four accused who had language related prosecutions against them dismissed (one striking wharf labourer, one seaman, one man for whom no occupation details are known, and one barman whose comments may have contributed to a striking

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<sup>79</sup> **The New Zealand Times**, 08 December 1913, p.8, col. 4. Hackett's occupation is not reported in the relevant newspaper reports. Only one Ernest Hackett, a seaman, is listed in the **New Zealand Electoral Roll 1914** (Wellington East, roll no. 7706) for any of the Wellington or Hutt electorates, and it has been assumed in this thesis that he was probably the accused in this criminal case.

<sup>80</sup> **The Dominion**, 25 November 1913, p.9, col. 4. On the court hearing also see **The New Zealand Times**, 25 November 1913, p.8, cols. 1-2. For the incident and arrest report see **The Dominion**, 20 November 1913, p.8, cols. 4-5. The insulting language quoted above is from Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913, prosecution no. 5891. On the other two dismissed language prosecutions (both dismissed by Magistrate Evans) see **The Dominion**, 18 November 1913, p.8, col. 3; 04 December 1913, p.9, cols. 7 and 8; and 10 January 1914, p.2, col. 6. For a similar dismissal of a strike related charge in the Dunedin Magistrate's Court see **The Otago Daily Times**, 29 November 1913, p.10, col. 2.

watersider hurling a glass at a special constable) were charged with any other offence, and each left court without a conviction.

The inciting charge against the strike leader Harry Holland was dismissed for a more complicated set of reasons. On 04 December 1913 the prosecutor attempted to progress through the cases against the strike leaders more quickly by presenting only some of the prosecution evidence. This unusual prosecution strategy strongly influenced Magistrate Riddell's decision to dismiss the inciting charge. In announcing his decision Riddell 'remarked that all this showed the danger of attempting arrangements and not calling the whole of the evidence.' Riddell also expressed his doubts that Holland's words fell within the criteria of the section of the Police Offences Act of 1908 under which this charge was laid. The next day Riddell committed Holland to the Supreme Court for trial on two charges of sedition, one of which concerned the same inflammatory words as the dismissed charge.<sup>81</sup>

The conviction rates and the contextual details of the dismissed cases suggest that the strike had little influence on the decisions of Wellington magistrates to convict. An accusation of involvement in a strike related crime was not sufficient to ensure conviction and punishment.

It is possible that the quality and certainty of evidence required for a conviction was not as high as prior to the strike. Magistrates may have been too trusting of the testimony given by some of the special constables, and overly critical of the defence witnesses, entering convictions where previously

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<sup>81</sup> See **The Dominion**, 05 December 1913, p.8, cols. 4 and 5; and 06 December 1913, p.6, cols. 7-8; and **The Evening Post**, 05 December 1913, p.3, col. 3. The quote is from **The Dominion**, 05 December 1913, p.8, col. 5. For the remaining charges against the strike leaders (including Holland) the Crown prosecutor reverted to calling all the prosecution witnesses.

the benefit of doubt would have been given to the accused.<sup>82</sup> Which witnesses, if any, committed perjury is impossible for the historian to prove, as is the number of instances of mistaken identity which resulted in conviction.

The evidence of the conviction rates, the court proceedings concerning the dismissed charges, and reading the newspaper reports of each of the other hearings suggest that any incorrect decisions were accidental. The magistrate assessed the reliability of the various witnesses, if each side's argument was plausible, and the consistency, or inconsistency, of the evidence which was presented.

These assessments may have been affected to some extent by the attitudes and preconceptions of the magistrates to the strike, to those involved in the strike, and to strike disorder. The hostility of sizeable sections of the middle class towards those who preached or supported revolutionary industrial unionism is evident in the editorials, letters to the editor, and news reports of the Wellington daily newspapers.<sup>83</sup> Appreciation of the work done by the special constables was widespread among the middle class. Those who publicly praised the efforts of the special constables included the Chief Justice. On 29 November 1913, while sentencing two participants in strike-related riots, the Chief Justice commented: 'But for the fact that a large

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<sup>82</sup> For a brief discussion of, and references concerning, these possibilities see pp.218-219 and 236 in this chapter.

<sup>83</sup> For a selection of the hundreds of relevant items see **The Dominion**, 29 January 1912, p.4, col. 4; 02 February 1912, p.4, col. 3; 09 February 1912, p.5, col. 8, p.6, col. 1 and p.6, col. 7; 23 October 1913, p.6, cols. 4-5; 27 October 1913, p.4, col. 2; 06 November 1913, p.6, cols. 4-5; 10 November 1913, p.5, col. 2; 14 November 1913, p.6, col. 5 (as quoted on p.1 of this thesis) and col. 6 and p.10, col. 1; 18 November 1913, p.6, col. 4; 22 November 1913, p.7, col. 6; 26 November 1913, p.8, cols. 4-5; 29 November 1913, p.12, col. 4; 11 December 1913, p.8, col. 3; **The Evening Post**, 07 October 1911, p.4, col. 7; 02 November 1911, p.4, col. 7; and 04 December 1913, p.3, cols. 3-4.

number of men had come forward and volunteered their services in the cause of law and order, the community might have been in a very dangerous position.’<sup>84</sup> The Wellington magistrates and judges were also determined to punish those who had committed strike related offences, as will be demonstrated later in this chapter. It seems unlikely, however, that the magistrates deliberately convicted anyone simply for being a striker or sympathiser accused of an offence.

This is not to say that the Wellington judiciary was never biased in its decisions to convict or the procedures it employed during jury trials. Barry Gustafson in 1980 commented upon the unfairness of the trial for seditious utterances of the working class leader Harry Holland.

The Court refused to accept the text of the speech [in which the seditious utterances were alleged to have been made] as printed in the [*Maoriland*] *Worker* from Holland's own notes and accepted in preference shorthand notes taken by a reporter from the *Dominion*. Holland was allowed to challenge only six jurors but the prosecution which was unrestricted, ordered twenty-two wage-earners to stand aside. The jury that convicted Holland was made up entirely of professional and business men.<sup>85</sup>

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<sup>84</sup> **The Dominion**, 01 December 1913, p.9, col. 2. Also see a similar comment by the Chief Justice during strike-related proceedings on 04 February 1914 (**The Dominion**, 05 February 1914, p.4, col. 5). For examples of newspaper editorials, letters to the editor, resolutions at citizens' meetings, and public ceremonies praising the special constables see **The Dominion**, 08 November 1913, p.4, cols. 6-7, and p.7, col. 8 (the letter by 'A Wellington Citizen'); 11 November 1913, p.10, cols. 2 and 3; 28 November 1913, p.9, col. 5; 01 December 1913, p.6, col. 4; 13 December 1913, p.4, col. 7; 19 December 1913, p.8, cols. 3-4. The entirety of the middle class were not as supportive. Liberal members of Parliament and Liberal newspapers were critical of the actions and behaviour of some of the specials, and in some instances were critical of the decision to enrol and use special constables. (See the editorial entitled 'Law or Anarchy?' in **The New Zealand Times**, 31 October 1913, p.6, cols. 3-4; and see reports in **The Evening Post**, 31 October 1913, p.4, cols. 2-5 and p.6, cols. 6-7; and **The New Zealand Times**, 14 November 1913, p.9, cols. 1-2).

<sup>85</sup> Gustafson, **Labour's Path**, p.76. For biographies of Sir Robert Stout see Waldo Hilary Dunn and Ivor L. M. Richardson, **Sir Robert Stout: A Biography**,

Holland was sentenced to twelve months in jail.

The cause of the considerable imbalance in the number of jurors challenged by the defence and the prosecution is unclear. The Juries Act of 1908 (sections 122 and 123) stipulated that the defence was only allowed to challenge six jurors, unless there were exceptional circumstances for any additional challenges.<sup>86</sup> Section 120 indicates that the prosecution was entitled to six peremptory challenges and additional challenges if there were exceptional circumstances: 'On the trial of all criminal cases, and of all civil cases to which the King is a party, there shall be the same right of challenge on behalf of the King as any prisoner or party possesses under this Act.'<sup>87</sup>

*The Maoriland Worker* reported that the prosecution had ordered twenty-five jurors to stand aside, twenty-two of whom were 'wage-workers'.<sup>88</sup> The names and the occupations of the challenged jurors were printed in *The Maoriland Worker*, as were the names and occupations of the jury which convicted Holland.<sup>89</sup> *The Maoriland Worker* criticised 'the extraordinary and

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(Wellington: A. H. and A. W. Reed, 1961), particularly pp.157-178 and 205-206 on his twenty-six years as Chief Justice; and David Hamer, 'Stout, Robert', **The Dictionary of New Zealand Biography, volume 2, 1870-1900**, (Wellington: Bridget Williams Books and Department of Internal Affairs, 1993), pp.484-487. Neither of these biographies discuss his role in the trials and sentencings related to the 1913 strike.

<sup>86</sup> **The Consolidated Statutes of the Dominion of New Zealand 1908**, vol. 3, p.105. On exceptional circumstances for additional challenges ('challenges for cause') see The Crimes Act, 1908, section 421 (**The Consolidated Statutes**, vol. 1, p.662).

<sup>87</sup> **The Consolidated Statutes 1908**, vol. 3, p.105.

<sup>88</sup> **The Maoriland Worker**, 18 February 1914, p.2, col. 3; 25 February 1914, p.4, col. 4; and 04 March 1914, p.6, cols. 3-4.

<sup>89</sup> **The Maoriland Worker**, 04 March 1914, p.6, cols. 3-4. 'The Crown thus challenged 5 labourers, 2 carpenters, 2 bootmakers, 2 drivers, 1 motorman, 1 salesman, 1 cabinetmaker, 1 caretaker, 1 printer, 1 clerk, 1 patternmaker, 1 blacksmith, 1 boilermaker, 1 storeman, 1 musician, 1 foreman, 1 contractor, 1 town traveller. Out of the 25 rejected by the Crown, 22 were wage-workers.' (col. 3). The

unfair method of selecting the jury provided by the present law.'<sup>90</sup> 'Indeed, the law as it stands is a menace to the collective and individual liberties of the whole people, and places in the hands of any authorities unscrupulous enough to fully use it a power to exercise for injustice and tyranny that ought not be tolerated.'<sup>91</sup>

The reports of Holland's trial in *The Dominion*, *The Evening Post*, and *The New Zealand Times* made no mention of anything unusual in the jury selection. As was standard reporting practice for trials none of the reports stated how many jurors were challenged, though *The Evening Post* and *The New Zealand Times* named the members of the jury which heard the case.<sup>92</sup> The manner in which such a large number of jurors were challenged by the prosecution and removed from the jury remains puzzling, as does the role of the Chief Justice in these challenges.

Two comments made by the Chief Justice in his summing up to the jury in Holland's trial indicate that Stout was not favourably disposed towards Holland. 'As to the meaning that lay in Holland's words, his Honour quoted the following: - "We are going to win, and, by God, we are going to do it, no matter what happens." "No matter what happens!" repeated his Honour.

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jury which convicted Holland comprised a merchant, two accountants, a manager, a dairyman, an 'agent', three carpenters, a printer, a bricklayer, and the occupation of the twelfth man was not included in the report (col. 4). This is not quite a jury 'made up entirely of professional and business men' as described by Gustafson, *Labour's Path*, p.76.

<sup>90</sup> *The Maoriland Worker*, 25 February 1914, p.2, col. 3.

<sup>91</sup> *The Maoriland Worker*, 25 February 1914, p.4, col. 4.

<sup>92</sup> *The Dominion*, 13 February 1914, p.4, cols. 1 and 2-3; *The Evening Post*, 12 February 1914, p.8, cols. 2-3; and 13 February 1914, p.2, col. 8; *The New Zealand Times*, 13 February 1914, p.4, cols. 3-4. Strangely, no report of Holland's trial can be found in *New Zealand Truth*, 14 February, 21 February, 28 February, or 07 March 1914.

"What can the accused mean by that?"<sup>93</sup> Stout also remarked: "The primal right of mankind wherever he lives is the right to work. If that is denied him, then he is living in a state of serfdom".<sup>94</sup> The Chief Justice's attitude would have been conveyed to the jury in the summing up, and may have influenced their decision.

The trial of Robert James Christopher Seal for destroying the Wellington Harbour Board's barricade on King's Wharf also problematises whether jury selection in strike related cases was as fair as it was supposed to be. The accused, who had been a striker, requested the removal from the jury of a man who had worked as a 'free-labourer' during the strike. The Chief Justice ruled that this was not a justifiable cause for exclusion of the juror. Instead, the accused had to use one of his limited number of peremptory challenges.<sup>95</sup> The Crimes Act of 1908 (section 421, paragraph 1) allowed 'every prosecutor and every accused person ... any number of challenges for cause' on the grounds 'that any juror is not indifferent between the King and the accused'.<sup>96</sup> It appears the Chief Justice considered a free-labourer deciding the guilt or innocence of a striker involved no conflict of interests and would not impinge on the defendant's right to a fair trial.

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<sup>93</sup> **The Evening Post**, 13 February 1914, p.2, col. 8.

<sup>94</sup> **The Dominion**, 13 February 1914, p.6, col. 7. An editorial in **New Zealand Truth**, 28 February 1914, p.4, col. 5 (1st version of this issue on the microfilm) commented that the Chief Justice was 'strongly biassed [sic] against the men who had taken part in the strike, and therefore was not capable of holding the scales of justice evenly and fairly.' This editorial was a reaction to Stout expressing his surprise that the Riot Act had not been read during the 1913 strike.

<sup>95</sup> **The Dominion**, 09 February 1914, p.11, col. 4 (which reported this challenge as a humorous anecdote, in a separate article to the description of the trial). Seal was found guilty by his jury and sentenced by the Chief Justice to seven months imprisonment (see **The Dominion**, 07 February 1914, p.6, col. 3; and 09 February 1914, p.3, col. 4).

<sup>96</sup> **The Consolidated Statutes 1908**, vol. 1, p.662.

An analysis of sentencing patterns demonstrates that the Wellington judiciary responded to the heightened social tension and disorder of late 1913 with heavier sentences for violent crime and other offences against the State than prior to the strike. Part of the explanation for the longer terms of imprisonment, larger fines, and increased proportion of those convicted who received mandatory imprisonment was the greater seriousness of the crimes prosecuted. An equally influential factor was the determination of the judiciary to deter or prevent further strike related disorder.

Mandatory imprisonment for strike related violent crime (46.34%) was six times greater than the pre-strike average (7.42%). For anti-state offences mandatory imprisonment tripled from 9.8% pre-strike to 33.33% for strike related incidents.<sup>97</sup> Most of these increases were concentrated in one month to three months sentences for violent crime, and sentences longer than six months for offences against the State.<sup>98</sup> The overall level for imprisonment (when those who were given the choice of a fine or imprisonment and could not pay the fine are added to the mandatory gaol figures) was also

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<sup>97</sup> See Table 16 (p.263) in the current thesis.

<sup>98</sup> Sentences greater than six months for crime against the State rose from one pre-strike to 14, or 22.22% of all strike related anti-state convictions. Two of these sentences (3.17%) were for more than one year: one year and nine months, and two years respectively.



**Table 16: Comparison of the Sentences for Offences Committed in Wellington During and in the Twenty-four and a Half Months Before the General Strike of 1913**<sup>99</sup>

<b>a) Violent Crime:</b>							
<b>Sentence</b>	<b>Strike Related</b>		<b>Pre-Strike (01 Oct 1911 to 17 Oct 1913)</b>		<b>Strike Period Not Strike Related</b>		
	No.	%	No.	%	No.	%	
Cautioned and Discharged	0	0.00%	36	9.21%	6	17.14%	
Fine	0	0.00%	17	4.35%	3	8.57%	
Fine or Imprisonment	22	53.66%	286	73.15%	22	62.86%	
Fine Paid		12 29.27%		176 45.01%		8 22.86%	
Imprisonment Chosen		10 24.39%		100 25.58%		14 40.00%	
Part Gaol & Part of Fine Paid	-	-		2 0.51%		- -	
Option Taken Not Recorded	-	-		8 2.05%		- -	
Imprisonment	19	46.34%	29	7.42%	2	5.71%	
Committed to Rehabilitative Institution	-	-	-	-	1	2.86%	
Corporal Punishment	-	-	16	4.09%	-	-	
Probation	-	-	3	0.77%	-	-	
Bond	-	-	1	0.26%	1	2.86%	
Ordered to come up for sentence when called upon	-	-	3	0.77%	-	-	
Unknown / Not stated	-	-	-	-	-	-	
<b>Totals:</b>	<b>41</b>	<b>100.00%</b>	<b>391</b>	<b>100.00%</b>	<b>35</b>	<b>100.00%</b>	

  

<b>b) Other Crime Against the State:</b>							
<b>Sentence</b>	<b>Strike Related</b>		<b>Pre-Strike (01 Oct 1911 to 17 Oct 1913)</b>		<b>Strike Period Not Strike Related</b>		
	No.	%	No.	%	No.	%	
Cautioned and Discharged	1	1.59%	15	6.12%	5	11.36%	
Fine	4	6.35%	1	0.41%	1	2.27%	
Fine or Imprisonment	29	46.03%	201	82.04%	31	70.45%	
Fine Paid		15 23.81%		107 43.67%		11 25.00%	
Imprisonment Chosen		13 20.63%		86 35.10%		18 40.91%	
Part Gaol & Part of Fine Paid		1 1.59%		8 3.27%		2 4.55%	
Imprisonment	21	33.33%	24	9.80%	5	11.36%	
Committed to Rehabilitative Institution	-	-	1	0.41%	-	-	
Corporal Punishment	-	-	1	0.41%	-	-	
Probation	1	1.59%	-	-	-	-	
Bond	7	11.11%	-	-	-	-	
Ordered to come up for sentence when called upon	-	-	-	-	1	2.27%	
Ordered to be handed to naval authorities	-	-	-	-	1	2.27%	
Bread and Water	-	-	1	0.41%	-	-	
Unknown / Not stated	-	-	1	0.41%	-	-	
<b>Totals:</b>	<b>63</b>	<b>100.00%</b>	<b>245</b>	<b>100.00%</b>	<b>44</b>	<b>100.00%</b>	

<sup>99</sup> This table contains the sentences for all individual charges (focused upon in this study) which were brought before the Wellington Magistrate's Court and resulted in a conviction in either the Magistrate's Court or the Wellington Supreme Court. One hundred and eighteen of the sentences were decided by a Supreme Court judge: 20 strike related, 93 pre-strike (80 of which were for larceny), and five strike period but not strike related (all for larceny). When one sentence was imposed concerning two or more charges that sentence is only counted once in this table.

**Table 16 (continued): Comparison of the Sentences**

<b>c) Theft:</b>					
<b>Sentence</b>	<b>Strike Related</b>	<b>Pre-Strike (01 Oct 1911 to 17 Oct 1913)</b>		<b>Strike Period Not Strike Related</b>	
		<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
	none strike related				
Cautioned and Discharged		61	9.70%	5	8.33%
Fine		12	1.91%	1	1.67%
Fine or Imprisonment		168	26.71%	26	43.33%
Fine Paid			63 10.02%		6 10.00%
Imprisonment Chosen			103 16.38%		18 30.00%
Part Gaol & Part of Fine Paid			2 0.32%		2 3.33%
Imprisonment		191	30.37%	18	30.00%
Committed to Rehabilitative Institution		35	5.56%	1	1.67%
Corporal Punishment		46	7.31%	-	-
Probation		8	1.27%	-	-
Bond		1	0.16%	-	-
Ordered to come up for sentence when called upon		107	17.01%	9	15.00%
Unknown / Not stated		-	-	-	-
<b>Totals:</b>	0 0.00%	629	100.00%	60	100.00%

significantly higher than usual concerning strike related offences. Overall imprisonment for violent crime was 33.51% pre-strike and 70.73% strike related, and for crimes against the state the relative proportions were 48.17% pre-strike and 55.55% strike related.<sup>100</sup>

Fines for strike related offences and the length of the imprisonment default for not paying these fines were greater than prior to the strike. Four-fifths (81.82%) of the fines imposed for strike related violence were more than £2. Before the strike only 9.57% of all fines for violent crime were over £2,

<sup>100</sup> See Table 16 (p.263). These overall imprisonment figures include the small number of cases where the accused served two days or more of the imprisonment default and then paid the remainder of the fine.

with 62.30% of all fines for violence set at £1 or less.<sup>101</sup> The increases in the size of the fines for other offences against the state were more moderate. Nearly two-thirds (63.67%) of fines for strike related other anti-state crimes were greater than £2, compared with 47.52% pre-strike. The proportion of “other” offences with fines of £4 or £5, in contrast, were six times higher: 5.94% pre-strike, increasing to 30.30% for strike related incidents.<sup>102</sup> Sentences of eight days or more imprisonment in default of paying a fine for violence increased from 16.43% pre-strike to 77.27% strike related (of all punishments for violence where the option of a fine or gaol was allowed the accused). Sentences for violence of 15 days or more in default rose from 2.10% pre-strike to 40.91% strike related.<sup>103</sup> The equivalent increase in sentences of 15 days or more in default for other offences against the state was from 4.98% pre-strike to 31.03% strike related.

Mandatory imprisonment rates for non-strike related violent crime (5.71%) and non-strike related other anti-state crime (11.36%) committed during the strike show almost no deviation from the pre-strike proportions.<sup>104</sup> However, there was a substantial increase in the proportion of sentences for

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<sup>101</sup> Excluding private prosecutions and juvenile offenders has an extremely minor impact on the proportions. The equivalent pre-strike figures are 9.43% of fines were over £2, with 63.02% of fines set at £1 or less. None of the strike related violence cases were private prosecutions or involved juvenile accused.

<sup>102</sup> No juvenile offenders were ordered to pay fines for either pre-strike or strike-related other offences against the state, thus cases involving juveniles had no influence on the extent of these increases. Private prosecutions are by definition not included in this category (see Chapter Two, pp.41-42, especially footnote 2).

<sup>103</sup> When private prosecutions and charges with juveniles as the accused are excluded the increase in the proportion of imprisonment defaults of eight days or more becomes slightly larger (from 15.69% pre-strike to 77.27% strike related) and the increase in defaults of 15 days or more becomes marginally smaller (from 2.35% pre-strike to 40.91% strike related).

<sup>104</sup> See Table 16 (p.263).

non-strike related other anti-state crimes with lengthy imprisonment alternatives for the non payment of fines. Before the strike four per cent of these sentences (ten of 245) required imprisonment for 21 days or longer if the fine was not paid (the maximum default imposed was one month). For non-strike related strike period offences the equivalent figure was 27.27 per cent (12 of 44 sentences), with four of these sentences having a three month imprisonment default.<sup>105</sup> Eleven of these sentences concerned obscene language and the twelfth was for insulting language with intent to provoke a breach of the peace.

For larceny the analysis of sentences is extremely straight forward. The mandatory imprisonment rate was slightly lower for offences committed during the strike (30.00%) than prior to the strike (30.37%). The overall imprisonment level was higher for strike period offences: 60.00% strike compared to 46.75% pre-strike. This increase was largely caused by fewer juveniles than usual being convicted of strike period thefts (only 13.33% of strike accused compared to 24.01% pre-strike). When juvenile accused are excluded the overall imprisonment rates are a closer 69.24% strike and 61.51% pre-strike.<sup>106</sup> Finally, there was little difference in the lengths of sentences between the two periods. From this data it is apparent that the

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<sup>105</sup> The proportion of those sentenced to a fine or lengthy imprisonment who did not pay the fine was lower for non-strike related offences (five of twelve - 41.67%) than prior to the strike (seven of ten - 70%). Though the percentage of all sentences in which the accused served 21 days or more in gaol in default of a fine was still significantly higher (11.36% - five of 44) for non-strike related offences than for pre-strike crime (2.86% - seven of 245).

<sup>106</sup> Excluding juvenile accused has little impact on the mandatory imprisonment rates. The slight decrease in such sentences for larcenies committed during the strike simply becomes more noticeable: 34.62% strike compared to 39.96% pre-strike.

strike had extremely little, if any, impact on the sentencing decisions made by the judiciary concerning those convicted of larceny.

Obscene language sentences provide an insight into the attitude of the Wellington judiciary towards offences committed during the strike. The seriousness of an obscene language offence does not fluctuate to the same extent that the seriousness of assaults fluctuate. A “common” assault can range from a slap on the face or the throwing of one small stone to dozens of punches and kicks.<sup>107</sup> In contrast, the context in which obscene language is used may change but the words themselves do not vary dramatically. This property allows direct comparisons to be made between pre-strike and strike obscene language sentences, with a high level of expectation that reasonably similar offences are being compared.

The most prominent difference between pre-strike and strike related obscene language sentences was the proportion of sentences of mandatory imprisonment. Before the strike 7.19 per cent of sentences (11 of 153) involved mandatory imprisonment, but for strike related offences this rate rose to fifty per cent (7 of 14).<sup>108</sup> For example, on 07 November 1913 Thomas

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<sup>107</sup> The Crimes Act 1908, section 207, defined an assault as ‘the act of intentionally applying force to the person of another, directly or indirectly, or attempting or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has, or causes the other to believe upon reasonable grounds that he has, present ability to effect his purpose.’ (**The Consolidated Statutes of the Dominion of New Zealand 1908**, vol. 1, Wellington: John MacKay, Government Printer, 1908, p.607).

<sup>108</sup> It should be noted that two of the seven sentences of mandatory imprisonment for strike related obscene language were joint sentences with more serious offences (assault so as to cause actual bodily harm, and taking part in a riot, respectively). These were also the longest sentences related to obscene language (12 months each). Excluding these two sentences has little impact on the overall trends. The relevant mandatory imprisonment rate is only a slightly lower 41.67% (five of twelve), instead of fifty percent (seven of fourteen).

Rodgers was sentenced to 14 days gaol for using obscene language to special constables. ‘ “Will there be no fine, sir?” he plaintively inquired. “Call the next case”, ’ was Magistrate Riddell’s only response.<sup>109</sup> Non-strike related strike period sentences were also significantly different to the pre-strike sentences. Lengthy imprisonment defaults of 21 days or more for the non-payment of fines were seven times more frequent for non-strike related obscene language (11 of 25, or 44.00%) than prior to the strike (9 of 153, or 5.88%).

These figures indicate that the Wellington magistrates were less tolerant of any use of obscene language during the strike, and responded with heavier punishments concerning both strike related and non-strike related incidents. Such a conclusion is supported by a statement made by Magistrate Evans on 03 December 1913 when sentencing four men who had each pleaded guilty to using obscene language. ‘The use of obscene language in the public streets within the hearing of passers-by had [sic] got to be put down’. Evans also noted ‘its prevalence in Wellington’. The punishment for each accused was a large fine of £5 with the alternative of three months imprisonment. None of the four offences were related to the strike.<sup>110</sup>

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<sup>109</sup> **The Dominion**, 08 November 1913, p.7, col. 5 (the quote is from this report); and **The New Zealand Times**, 08 November 1913, p.5, col. 5. The accused’s surname is spelt as it appears in the Wellington Magistrate’s Court Criminal Record Book, no. 82, November 1913, prosecution no. 5667 and in **New Zealand Police Gazette**, 1913, p.739.

<sup>110</sup> **The Evening Post**, 03 December 1913, p.8, col. 9 and p.2, col. 5. (The quotes are from p.8, col. 9). Also see **The Dominion**, 04 December 1913, p.11, col. 5. Three of the convicted men paid the remainder of their fines after serving between one and five days of the prison alternative. The fourth man (Arthur Gorham) was released from Wellington Prison in March 1914. (See Wellington Magistrate’s Court Criminal

In a separate sentencing on 20 November Magistrate Riddell commented that he was not inflicting the maximum penalty for obscene language allowed by the law of a fine of £20 or one year's imprisonment. The accused instead received one month's mandatory imprisonment for his four words directed at a troop of mounted special constables.<sup>111</sup> None of those convicted of obscene language in Wellington during the strike received the maximum sentence, nor anything above one quarter of the maximum penalty.<sup>112</sup> In contrast, the maximum fine of £20 was imposed on 17 December 1913 in the Hastings Magistrate's Court concerning a case with no apparent connection to the strike, the extreme seriousness of the offence being the use of obscene language in the hearing of women.<sup>113</sup> This evidence demonstrates that although Wellington magistrates imposed heavier penalties for obscene language than prior to the strike they chose not to enforce the law to anywhere near its full potential.

A similar trend is evident in the sentences imposed for strike related violent crime and rioting. When sentencing Edmund Barlow to one month in jail for throwing a stone at a group of passing policemen Magistrate Riddell noted that "anyone is liable to three months' imprisonment for assaulting a

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Record Book, no. 83, December 1913, prosecution no.s 6215, 6216, 6217 and 6218; and *New Zealand Police Gazette*, 1913, pp.773, 789 and 791, and *New Zealand Police Gazette*, 1914, p.195).

<sup>111</sup> *The Dominion*, 21 November 1913, p.8, col. 8, and 20 November 1913, p.8, cols. 5-6; and Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913, prosecution no. 5894.

<sup>112</sup> Assuming that the two sentences of twelve months discussed in footnote 108 (p.267) were largely in response to the related assault and taking part in a riot convictions.

<sup>113</sup> *The Dominion*, 19 December 1913, p.5, col. 7.

constable.”<sup>114</sup> The Chief Justice, Sir Robert Stout, made a similar statement on 29 November 1913 at the Supreme Court sentencing of two strikers who had pleaded guilty to rioting. He commented that the law allowed a punishment of two years imprisonment with hard labour, and that ‘the Court also had power to order the accused to be submitted to reformatory treatment for any period up to ten years.’ The two men received sentences of eight months and nine months’ imprisonment, respectively.<sup>115</sup>

Though the maximum penalties were rarely imposed the punishments for strike related violence were still substantial. In sentencing William Henry Lawton for taking part in the Whitcombe and Tombs riot the Chief Justice stated ‘he intended to deal more leniently with the prisoner as he had pleaded guilty, and in view of his past record [of good behaviour]. He could not, however, treat the crime as a light thing; it was a very serious crime, and far more serious than stealing property, forgery, and such offences, in as much as it was a crime against the community and against good order. But for the fact that a large number of men had come forward and volunteered their services in the cause of law and order, the community might have been in a very dangerous position.’ Lawton was sentenced to nine months imprisonment, in addition to the three months he had received in the Magistrate's Court for two related offences during the same riot.<sup>116</sup>

The Wellington judiciary were determined that those guilty of strike related disorder received significant punishments, and intended their sentences to act as warnings to other potential offenders. Magistrate Riddell

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<sup>114</sup> **The Dominion**, 08 November 1913, p.7, col. 5.

<sup>115</sup> **The Dominion**, 01 December 1913, p.9, col. 2.

<sup>116</sup> **The Dominion**, 01 December 1913, p.9, col. 2. On the two related convictions see **The Dominion**, 22 November 1913, p.6, cols. 7-8.



was adamant that "This interference must cease" when he sentenced Thomas Vann to one month's imprisonment for assaulting Walter Johnson, a working carter. Vann had been one member of a crowd who had first followed, then impeded and verbally abused Johnson as Johnson attempted to return his employer's horse and cart to Brooklyn at the end of the working day on 19 November.<sup>117</sup> A week later Riddell ordered George Bailey to produce a bond of £200 to keep the peace for twelve months, with two sureties of £200 each, for the inflammatory words he had used at a strike meeting. Riddell informed Bailey 'he should know that statements such as he had made were not conducive to law and order. It had been quite unnecessary to make statements of the kind under review.'<sup>118</sup>

On 07 February 1914 the Chief Justice sentenced thirteen men who had either pleaded guilty to or had been convicted by a jury for strike related offences. 'His Honour stated at the outset that he would not allow probation' to 'men who had committed offences of this nature'. The lightest sentence he handed down on this date was three months imprisonment. Eleven of the men were sent to prison for seven months or longer.<sup>119</sup> At one of the related rioting trials, three days earlier, the Chief Justice had told the jury in his summing up 'that there could be no law and order if incidents such as those

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<sup>117</sup> **The Dominion**, 21 November 1913, p.8, col. 8. A slightly different wording was reported in **The Evening Post**, 20 November 1913, p.7, col. 9: "This interference must be stopped." For additional reports of the incident see **The Dominion**, 20 November 1913, p.8, col. 5; and **The Evening Post**, 20 November 1913, p.3, col. 3.

<sup>118</sup> **The Dominion**, 29 November 1913, p.6, col. 7. See Chapter Five, p.204 for more details on Bailey's prosecution.

<sup>119</sup> **The Dominion**, 09 February 1914, p.3, cols. 4-5. (The quotes are from col. 4). The thirteenth man was sentenced to four months imprisonment (col. 4).

related in the evidence were to be tolerated.<sup>120</sup> The accused, Thomas Acland, received twelve months imprisonment on 07 February.<sup>121</sup>

Additional evidence of the determination of the judiciary to both punish the guilty and deter further strike related offending is apparent in the sentences given to Agnes Udall and Sydney Claridge. Due to extenuating circumstances the initial charges of unlawful assembly against Udall and rioting against Claridge were withdrawn by the police. Udall was in hospital suffering from a nervous breakdown caused by the court proceedings. On 26 November 1913 her lawyer entered a plea of guilty on her behalf to a lesser charge of threatening behaviour whereby a breach of the peace was occasioned. Rather than considering the nervous breakdown sufficient punishment for her strike related misdeeds and only entering a conviction against her Magistrate Riddell imposed a reasonably small fine of £1.<sup>122</sup> Claridge's rioting charge was withdrawn because of his weak 'intellectual condition' along with a good character reference. He pleaded guilty to a reduced charge of the use of conduct likely to provoke a breach of the peace. Riddell sentenced the accused to pay a moderate fine of £2 or spend seven days in gaol in default of payment, and to enter into a sizeable bond of £20 and one surety of £20 to keep the peace for six months. The accused's employer, who acted as Claridge's character witness, stated before the

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<sup>120</sup> **The Dominion**, 05 February 1914, p.9, col. 5.

<sup>121</sup> **The Dominion**, 09 February 1914, p.3, col. 4.

<sup>122</sup> **The Dominion**, 27 November 1913, p.9, col. 4; and **The Evening Post**, 18 November 1913, p.8, col. 1.

sentence was announced that he was willing to supply a bond for Claridge. It was Magistrate Riddell's choice to require such a bond.<sup>123</sup>

Eighteen of those accused of Wellington strike related offences were required to provide bonds and sureties to keep the peace for either six or twelve months. For eleven of these persons the bond was in addition to the punishment of mandatory imprisonment or a fine concerning the same charge.<sup>124</sup> The sizeable financial penalty for infringement of these good behaviour bonds was an effective guarantee that the offender would avoid becoming involved in further strike related disorder.

Even greater certainty of no re-offending during the period of the bond was ensured when the accused was unable to produce the bond or find sureties. In these cases the individual was forced to remain in prison until either the bond and sureties were obtained, or the six or twelve month duration of the bond had expired. Thomas Barker, an organiser for the I.W.W., experienced considerable difficulty in finding £500 for his bond and two sureties of £500 each. He was not released from Wellington Prison until 15 January 1914, forty days after Magistrate Riddell set the bond amounts on

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<sup>123</sup> **The Dominion**, 28 November 1913, p.9, col. 3. On the court proceedings against both Udall and Claridge also see p.227 above in the current chapter.

<sup>124</sup> In the two years before the strike (01 October 1911 to 17 October 1913) only seven persons were ordered by the Wellington magistrates to provide bonds to keep the peace. (Two of these cases concerned violent crimes, none related to other offences against the state, and the third bond was for a 15 year old juvenile convicted of theft. The remaining four bonds were the outcome of three private applications and one police application for sureties of the peace which were not accompanied by either a prosecution for actual physical violence or a police prosecution for an anti-state offence. The last four applications have not been included in the pre-strike quantitative data analysed throughout this thesis. Their only relevance for, and use in, this thesis is for the discussion in the current footnote. See Chapter Two, pp.41-42 for the reasons for this data selection decision).

05 December 1913.<sup>125</sup> William Parker, a striking watersider, spent eighteen days in Wellington Prison (09 December 1913 to 27 December) waiting for his bond of £50 and two sureties of £25 each to be arranged.<sup>126</sup>

Magistrate Evans treated one drunken striker more leniently. On 03 December the seaman, lately employed on the s.s. Moana, was charged with being a rogue and vagabond in that he was found by night without lawful excuse in Hannah's Buildings. The accused's lawyer explained that while in a state of drunkenness his client had wandered into the building where - on the fourth floor - he was found asleep and arrested. 'Counsel submitted that there was no guilty intent. Inspector Hendrey [the police prosecutor] agreed that perhaps there was no guilty intent.' The striker was convicted and discharged without punishment.<sup>127</sup> The reasons for the lenient sentence would have included the lack of premeditation or criminal intent by the accused and that the offence was in no way connected with strike related disorder. In contrast, at the same court sitting Magistrate Evans fined four men £5 each with the alternative of three months in prison for obscene language offences which were not related to the strike.<sup>128</sup>

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<sup>125</sup> See **The Evening Post**, 05 December 1913, p.7, col. 9; **The Dominion**, 06 December 1913, p.6, cols. 6-7; 30 December 1913, p.4, col. 6; and 06 January 1914, p.4, col. 7; and **New Zealand Police Gazette**, 1914, p.63.

<sup>126</sup> **The Dominion**, 10 December 1913, p.6, col. 5; and **New Zealand Police Gazette**, 1914, p.24. Parker also had to find £50 bail and sureties concerning a separate charge for which he had been committed to the Supreme Court for trial (see **The Dominion**, 10 December 1913, p.6, col. 5). On Parker's occupation, Supreme Court trial, and Supreme Court sentence see **The Dominion**, 04 February 1914, p.5, col. 1 and 09 February 1914, p.3, col. 4.

<sup>127</sup> **The Dominion**, 04 December 1913, p.11, col. 5. This offence is not included in the quantitative data analysed throughout the rest of this thesis. It does not fall into any of the categories of potential protest crime which are analysed, and is simply a crime by a striker, rather than a strike related crime.

<sup>128</sup> **The Dominion**, 04 December 1913, p.11, col. 5. Also see p.268 above.

On 25 November Magistrate Riddell had shown leniency concerning a similar trespass offence by Robert Martin. In this case the accused was not a striker. The property where the drunken trespasser was sleeping was the stable at the Lambton Quay Police Station. Inspector Hendrey stated in court 'that he did not think for a moment that Martin was in the stable with the intention of doing any harm.' 'The Magistrate remarked to Martin that he was liable to a long term of imprisonment. In the circumstances, however, he would merely convict him, and order him to appear for sentence when called on.'<sup>129</sup> Leniency was possible during the strike, even if the accused was a striker or had committed an offence against the police.

Overall the Wellington judiciary responded to strike related disorder with longer jail terms, larger fines, and a greater proportion of sentences of mandatory imprisonment than prior to the industrial dispute. Mandatory imprisonment, however, was not imposed for every offence it could have been. Only 31 of the 83 persons (37.35%) convicted of strike related offences were sentenced to mandatory imprisonment.<sup>130</sup> In nearly all the remaining instances mandatory imprisonment was a legal option (if an unusually harsh option for relatively minor incidents and for those who had no previous convictions). For example, Walter Percival Jackson, a striking wharf worker, was fined £5 or 14 days jail in default for using obscene language on

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<sup>129</sup> **The Dominion**, 26 November 1913, p.10, col. 6. This offence is also not included in the quantitative data analysed throughout the rest of this thesis. See Chapter One, footnote 86 (pp.36-37) for the reasons why vagrancy offences have been excluded from the main quantitative analysis.

<sup>130</sup> The relevant figures for only those convicted of strike related violence or rioting were 25 of 43 persons (58.14%).

31 October towards two regular policemen.<sup>131</sup> On 24 October 1912 Ada Edwards had been sentenced to two months mandatory imprisonment on the same charge.<sup>132</sup> Imprisoning every person who had contributed to strike related disorder (or even a majority of those who were apprehended and convicted) was not a strategy used to control or deter disorder.

Wellington was not the only city in which sentencing decisions were influenced by the strike. In Christchurch, for example, the magistrates responded firmly to any behaviour they considered had the potential to escalate the industrial tensions into overt disorder. On 24 November 1913 George Barnes appeared before Magistrate Bishop in the Christchurch Magistrate's Court charged with obscene language. The offence was in no way connected with the strike. It was admitted that Barnes was under the influence of liquor at the time of the incident. Bishop's response to this information was "That makes it all the worse! I shall deal severely with all cases of disorder during this special time." The defence counsel 'asked that the special consideration always extended by the Court to a first offender, should be extended to his client.' Bishop replied "Yes, at any other time, but not now!". When sentencing the accused to fourteen days gaol with hard

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<sup>131</sup> **The Dominion**, 01 November 1913, p.6, col. 5; and 03 November 1913, p.11, col. 5. The fine was paid (see Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913, prosecution no. 5578). For similar strike related examples see **The Dominion**, 11 November 1913, p.8, col. 8; 20 November 1913, p.9, col. 6; 10 December 1913, p.6, col. 6; and 11 December 1913, p.8, col. 5.

<sup>132</sup> **The Dominion**, 25 October 1912, p.9, col. 3. For similar pre-strike examples see **The Dominion**, 13 January 1912, p.13, col. 6; 04 March 1912, p.3, col. 3; 26 October 1912, p.14, col. 4; 05 November 1912, p.11, col. 4; 23 November 1912, p.14, col. 5; and 04 August 1913, p.3, col. 4.

labour, Bishop 'added that anything which inflamed the public mind at this time was a danger.'<sup>133</sup> Three days later:

Robert James Dougall, a young man, was charged before Mr. H. W. Bishop, S.M., in the [Christchurch] Magistrate's Court yesterday with being a rogue and a vagabond, in that he was found yesterday armed with an offensive weapon, to wit a bludgeon, with felonious intent.

Accused said the whole affair was a joke, and he, with a "mob" of other fellows, was only acting the goat.

The Magistrate: A rather dangerous way of "acting the goat", when the whole city is excited.

Senior-Sergeant Mathieson said the accused's statement was quite correct. There was a mob of youths, and they were all armed with batons. They went about accosting people, and endeavouring to create a disturbance. The accused had a bad record.

The Magistrate: That alters the case. Sentenced to fourteen days' hard labour!<sup>134</sup>

Magistrate Bishop's intention to minimise the potential for disorder while the strike continued is once again visible in a lenient sentence given to Samuel Lee on 29 November. Lee was charged with being an idle and disorderly person, in that he had insufficient lawful means of support. He was convicted and ordered to come up for sentence when called upon, not to be called provided he immediately left Christchurch. "We are not going to have a lot of loafers about the town at this time", declared his Worship.<sup>135</sup>

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<sup>133</sup> **The Press**, 25 November 1913, p.4, col. 4. Magistrate Bishop made a similar comment on 22 November (see **The Dominion**, 24 November 1913, p.7, col. 1).

<sup>134</sup> **The Press**, 28 November 1913, p.8, col. 1.

<sup>135</sup> **The Press**, 01 December 1913, p.5, col. 6. Another man charged with a vagrancy offence received a similar sentence from a second Christchurch magistrate, Mr. T. A. B. Bailey, S.M., on 28 November. 'William Brown, an old man, was charged with being a rogue and a vagabond, in that he was found by night without lawful excuse on the premises of Walter Harvey, Hereford street. He was convicted and discharged on the understanding that he left Christchurch for a long stay in the

The determination of the Wellington magistrates to prevent further disorder is also apparent from their decisions concerning bail for those accused of strike related offences. On 05 November Magistrate Riddell refused the bail applications of two men alleged to have been involved in the unlawful assembly outside the Royal Tiger Hotel the previous evening. 'Not in the present circumstances', was his response when they asked for bail. 'You should know the law, and you have already been warned against frequenting, and congregating in, the streets during the present trouble.'<sup>136</sup> In other cases where bail was allowed the amounts were usually considerable. John Edward Harrington, a seaman, was required to find (and obtained) £100 bail while on remand for taking part in the Post and Telegraph Stores riot of 30 October. On 22 November Harrington was committed to the Supreme Court for trial on the same charge and his bail was increased to £200.<sup>137</sup> Bail was also fixed at £200 for another seaman, Charles Frederick Beaumont, accused of taking part in the same riot and committed on 20 November to the Supreme Court

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country.' **The Press** does not report that Magistrate Bailey made any reference to the strike while dealing with this case. (**The Press**, 29 November 1913, p.2, col. 3).

<sup>136</sup> **The Dominion**, 06 November 1913, p.8, cols. 2-3 (the quotes are from col. 3). Each of the accused, Robert Hill and Archibald Campbell, spent seven days on remand without bail in Wellington Prison. At their next Magistrate's Court appearance on 12 November the charges against them were resolved through a conviction and a committal to the Supreme Court each (see **The New Zealand Times**, 13 November 1913, p.7, cols. 3-4).

<sup>137</sup> **The New Zealand Times**, 17 November 1913, p.7, col. 7; 24 November 1913, p.6, col. 1; **The Dominion**, 24 November 1913, p.7, col. 5; and Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913, prosecution no. 5838, relevant dates 15 November and 22 November. The magistrate at both of Harrington's Magistrate's Court appearances was Riddell. Harrington was released on bail on 17 November (see **New Zealand Police Gazette**, 1913, p.738). The relevant reports in **The Dominion**, **The Evening Post** and **The New Zealand Times** provide no explanation as to why bail was increased. It appears that Harrington was able to raise the extra £100 for his bail: there are no later discharged from gaol entries for



for trial.<sup>138</sup> A striking watersider, Charles Johnson, charged with assaulting a mounted special constable was ordered on 19 November to provide £150 for bail.<sup>139</sup> When setting bail at £80 for two men charged with having taken part in the unlawful assembly of 05 November in Featherston Street Riddell 'remarked that the defendants had a right to bail, but the amount must be substantial.'<sup>140</sup> In addition, Riddell advised the two men that they 'would have to behave themselves and keep away from the crowds. If they broke this pledge they would be re-arrested.'<sup>141</sup>

The purpose of sizeable bail requirements was to deter the accused from becoming involved in strike disturbances while awaiting hearing or trial. A second motivating factor may have been a hope by the magistrate that the defendant would be unable to raise the bail and would have to remain in gaol. This outcome would also achieve the goal of reducing the potential for further disorder on the streets of Wellington. Such a motivation is extremely difficult to prove. The possibility that a strike "offender" would be bailed by fellow strikers or their union suggests that the hope the accused would remain in prison was not the main motivation for setting high bail. The cases of

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Harrington in the *New Zealand Police Gazettes* for 1913 or 1914 after his 17 November 1913 release on bail.

<sup>138</sup> *The Evening Post*, 20 November 1913, p.8, col. 1; and *The Dominion*, 21 November 1913, p.8, col. 7. Beaumont's bail while on remand to appear at the Magistrate's Court had been a lower £150, and the magistrate at both of his Magistrate's Court appearances was Riddell (see *The Dominion*, 12 November 1913, p.10, col. 4; and Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913, prosecution no. 5714, relevant dates 11 November and 20 November).

<sup>139</sup> *The Dominion*, 20 November 1913, p.8, col. 4. Johnson's bail would have been lower if he had not been carrying a concealed modified baton when arrested. Johnson was released on bail on 20 November (see *New Zealand Police Gazette*, 1913, p.739).

<sup>140</sup> *The Dominion*, 07 November 1913, p.8, col. 3.

<sup>141</sup> *The Evening Post*, 06 November 1913, p.8, col. 4.

leniency concerning bail (discussed below) provide further indications that the intention of the magistrates was deterrence rather than confinement.

The strike leaders experienced the greatest difficulty in obtaining bail. Magistrate Riddell twice refused to allow bail for the six strike leaders arrested on 11 and 12 November and charged with seditious utterances or inciting disorder.<sup>142</sup> Bail was a legal right for persons accused of indictable offences (charges which usually required a Supreme Court trial if a plea of not guilty was entered). Each of the six men, however, were charged with summary offences for which bail could be refused at the magistrate's discretion. (Three of the strike leaders faced both summary and indictable charges). Riddell used this discretion to first set substantial bail requirements for the indictable charges (where applicable), and then refuse bail on the (less serious) summary charges.<sup>143</sup> Only on 28 November, after sixteen days remanded in

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<sup>142</sup> On 12 November Riddell refused the bail applications of Bailey, Fraser, Holland, Semple and Young (**The Dominion**, 13 November 1913, p.8, cols. 4-6). On 19 November Riddell again refused bail for these five men, and also refused the bail request of Barker who made his first appearance in the Wellington Magistrate's Court on this date (**The Dominion**, 20 November 1913, p.9, cols. 4-5). It appears that no attempt to re-apply for bail was made by the defence lawyers on 28 November. **The Dominion**, **The Evening Post**, **The New Zealand Times**, **The Otago Daily Times**, **The Press**, **The Maoriland Worker**, and **New Zealand Truth** contain no mention of bail applications or refusal of bail in relation to the 28 November court appearances of the strike leaders. If bail had been refused once more this should have been reported by at least one of the newspapers, and most likely by all of them. The first two refusals of bail on 12 and 19 November received considerable press coverage. That the official newspaper of the United Federation of Labour, **The Maoriland Worker** (10 December 1913, p.7, cols. 4-6), made no comments concerning bail in its lengthy report on the 28 November court proceedings involving the strike leaders provides strong confirmation that bail was not refused by Magistrate Riddell on this date. Also see **The Maoriland Worker**, 03 December 1913, p.5, col. 2.

<sup>143</sup> **The Dominion**, 13 November 1913, p.8, cols. 4-6 (especially cols. 4-5); 20 November 1913, p.9, cols. 4-5. For reports on the arrests of the strike leaders see **The Dominion**, 12 November 1913, p.8, cols. 4-5; and 13 November 1913, p.8, col. 3 and col. 6. The three men not charged with an indictable offence were George Bailey, Peter Fraser, and Robert Semple. For some indictable offences the accused could

Wellington Prison, were the cases against the first two of these men resolved. The four remaining strike leaders spent another week in prison waiting for the charges against them to be heard and waiting for the reserved decision on one of the charges involving William Thomas Young.<sup>144</sup>

In an interview conducted on 04 December 1913 Peter Fraser strongly criticised the refusal of bail for himself and the other arrested strike leaders. 'Mr. Fraser was highly indignant about the Magistrate's refusal to allow bail in the first instance. In this matter the whole of the men were treated worse than criminals, and in the cases of himself and Bailey, it amounted to three weeks' imprisonment for nothing, seeing that they were only bound over. No one could help but regard the whole affair as being a "slim" move on the part of the Government to get men out of the way.'<sup>145</sup>

Comments by Magistrate Riddell concerning the second remand of the strike leaders on 19 November suggest that depriving the Wellington strikers of six of their most enthusiastic leaders was not his primary intention in refusing bail. Upon learning that the defence counsel intended to ask for a remand Riddell replied: 'I was prepared to hear the cases to-day. There is nothing to be gained by keeping them hanging over. .... I hope there will be no further adjournment.'<sup>146</sup>

Remands without bail were an effective means of removing those perceived to be troublemakers from the streets of Wellington. Such remands

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elect to be tried immediately by a Magistrate, rather than wait a number of weeks or months for a jury trial.

<sup>144</sup> **The Dominion**, 29 November 1913, p.6, cols. 4-7.

<sup>145</sup> **The Maoriland Worker**, 10 December 1913, p.1, col. 1.

<sup>146</sup> **The Dominion**, 20 November 1913, p.9, col. 4. The first set of remands on 12 November, and the refusal of bail, had been at the request of the Crown prosecutor (see **The Dominion**, 13 November 1913, p.8, cols. 4-6).

ensured the accused remained in prison, unlike the potential outcomes associated with the actual hearing of a case. Convictions could be appealed and the accused was automatically entitled to bail until the appeal had been heard.<sup>147</sup> The sentencing options for a particular charge might not include mandatory imprisonment.<sup>148</sup> A mistake by the prosecutor might require the magistrate to dismiss a charge.<sup>149</sup> Committals to the Supreme Court for trial allowed bail as a right. For these reasons Riddell's criticism of the request for a further remand would seem self-defeating if his purpose had been to keep the strike leaders in gaol as long as possible.

Riddell, though, was still adamant in his refusal to grant bail on 19 November. His response to the defence counsel's attempt to obtain bail for

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<sup>147</sup> This eventuated concerning one of the charges against William Thomas Young, who appealed his conviction by Riddell on 04 December 1913 to the Supreme Court. (See **The Evening Post**, 04 December 1913, p.7, col. 9 and p.8, col. 1; and 05 December 1913, p.3 col. 3). Also see Chapter Five, footnote 145 (pp.205-206).

<sup>148</sup> Four of the strike leaders (George Bailey, Peter Fraser, Robert Semple, and Thomas Barker) were only required to provide a bond and sureties to keep the peace to resolve the summary charges against them. Thomas Barker, however, experienced considerable difficulty in finding £500 for his bond and two sureties of £500 each. He was not released from Wellington Prison until 15 January 1914, forty days after Riddell set the bond amounts on 05 December 1913. (See **The Evening Post**, 05 December 1913, p.7, col. 9; **The Dominion**, 06 December 1913, p.6, cols. 6-7; 30 December 1913, p.4, col. 6; and 06 January 1914, p.4, col. 7; and **New Zealand Police Gazette**, 1914, p.63). The other three leaders spent either four or five days waiting in gaol for sureties and acceptance by the Magistrate's Court of the suretors (see **The Dominion**, 29 November 1913, p.6, cols. 6-7; 03 December 1913, p.9, col. 2; 04 December 1913, p.9, cols. 4 and 8; and 06 December 1913, p.6, cols. 4-6; and **The New Zealand Times**, 11 December 1913, p.7, col. 7).

<sup>149</sup> The prosecutor's attempt to progress through the cases against the strike leaders more quickly by presenting only some of the prosecution evidence strongly influenced Magistrate Riddell's decision to dismiss one of the four charges against Henry Holland on 04 December 1913. Riddell also expressed his doubts that Holland's words fell within the criteria of the section of the Police Offences Act under which this charge was laid. (See p.256 in this chapter).

Thomas Barker was a succinct 'I have given my decision, Mr. Dickson.'<sup>150</sup> It appears the seriousness of the charges and a concern that the accused might incite further disturbances with their militant speeches were Riddell's central motivations in denying bail, rather than hostility to the strike or its leaders.

In at least two strike related cases Magistrate Riddell displayed leniency when setting bail. Agnes Udall, a 29 year old woman, was one of five persons who appeared in court on 06 November on a charge of having taken part in the unlawful assembly in Featherston Street the previous day. Each accused was remanded until 12 November. Udall's bail was set at only £20. In contrast, bail of £80 each was required from William George Cockell and George Johnston. The other two defendants (Alexander Churchman and Carl Johnson) made no application for bail at their first remand. On 12 November all four men were allowed bail of £80 each. Udall's bail remained at £20.<sup>151</sup>

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<sup>150</sup> **The Dominion**, 20 November 1913, p.9, col. 5. **New Zealand Truth**, 22 November 1913, p.5, col. 8 (1st version of this issue on the microfilm) provided a more colourful description of Magistrate Riddell's reply: 'Riddell looked daggers at the presumptuous young law fledgling, and snapped out "I have given my decision." '

<sup>151</sup> **The Dominion**, 07 November 1913, p.8, col. 3; and 13 November 1913, p.8, col. 6; and Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913, prosecution no.s 5633, 5645, 5646, 5647, and 5648. None of the relevant reports in **The Dominion**, **The Evening Post**, or **The New Zealand Times** state why bail of only £20 was set for Udall. Udall's experience could be interpreted as being caused by a gender differential in the magistrate's attitude to granting bail. The only other woman prosecuted in connection with a riot, Florence Nelson, was also allowed £20 bail. She was charged with taking part in an unlawful assembly for her role in the Royal Tiger Hotel riot of 04 November. At Nelson's first remand on 12 November Inspector Hendrey suggested to Magistrate Riddell that the fact that the accused had a number of children should be considered when bail was being fixed. This was the same court session at which bail of £20 was allowed for Udall, and £80 each for the four men accused of rioting in Featherston Street. (**The Dominion**, 13 November 1913, p.8, col. 6. **The Dominion** misreports the amount of Nelson's bail as £80. Wellington Magistrate's Court Criminal Record Book, no. 82, November 1913, prosecution no. 5724; **The Evening Post**, 12 November 1913, p.8, col. 1; and **The**

On 19 November John Troy, a seaman, was committed to the Supreme Court for trial on the extremely serious charge of assaulting a mounted special constable with intent to do grievous bodily harm. Detective Bailey witnessed Troy throw the stone which struck the victim, and stated in the Magistrate's Court that 'the blow was heavy, and the stone large.' At the request of Mr. O'Leary (the defence counsel) Riddell agreed to reduce Troy's bail from £100 to £80. 'Mr. O'Leary said that the smaller amount could be obtained, and that unless bailed Troy would have to remain in prison three months awaiting the session of the Supreme Court.'<sup>152</sup> Troy was released on bail the next day.<sup>153</sup>

Even while being lenient Magistrate Riddell continued his efforts to minimise further disorder. In granting Udall bail Riddell 'remarked that he did so only on the distinct understanding that during the period of her remand she kept away from all disturbances or assemblages connected with the strike.'<sup>154</sup>

The overall conclusion drawn from the analysis of conviction and sentencing patterns is that the Wellington judiciary responded firmly to the period of disorder and heightened social tensions, but that this response was neither malicious nor indiscriminate. The criminal law was not used as a

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**New Zealand Times**, 13 November 1913, p.7, col. 4, state that bail was set at £20). Bail was apparently not asked for by the third and final woman accused of a strike related offence, Minnie Brown (**The Dominion**, 09 December 1913, p.11, col. 3; and see 16 December 1913, p.6, col. 4). Brown had a lengthy criminal record with at least 27 previous convictions, thus her not applying for bail is not surprising. (See **New Zealand Police Gazette**, 1914, p.64; 1913, pp.45, 241, 499, 553; and 1912, p.32).

<sup>152</sup> **The Dominion**, 20 November 1913, p.9, cols.5-6 (both quotes are from col.6). The next criminal session of the Supreme Court began on 02 February 1914. Troy pleaded guilty in the Supreme Court to the lesser offence of common assault, and received four months imprisonment (**The Dominion**, 03 February 1914, p.8, col. 5; and 09 February 1914, p.3, col. 4).

<sup>153</sup> **New Zealand Police Gazette**, 1913, p.739.

<sup>154</sup> **The Dominion**, 07 November 1913, p.8, col. 3.

means to remove (through conviction and imprisonment) all “undesirables” or potential “troublemakers” from the streets of Wellington. Simply being an enthusiastic striker or strike sympathiser was not considered by the judiciary as sufficient cause for imprisonment, even if an individual had committed an offence for which mandatory imprisonment was a sentencing option. Magistrate Riddell’s refusal to grant bail forced six working class leaders to remain in jail for two to three weeks during the strike. This decision appears to have been motivated by a genuine fear that these leaders would continue their fiery speeches if released and generate more instances of serious disorder, rather than by a desire to help defeat the strike. Many of those who were convicted of strike related offences received longer terms of imprisonment and larger fines than were imposed prior to the strike. These sentences were intended to deter potential offenders and prevent further disorder, as well as to punish those caught. The penalties were firm but not as severe as the law allowed.

### **The Government and the Criminal Law during the 1913 Strike:**

In early December 1913, two weeks before the strike ended, new criminal legislation was approved by Parliament. This legislation specifically concerned actions which rarely took place unless an industrial dispute was in progress. New criminal charges were created to deter strikers and their sympathisers from engaging in intimidating behaviour against strike-breakers and others who supported employers during strikes and lockouts. Inciting another person to commit a breach of the law even if there was no actual breach of the law was made an offence, as was threatening to injure the property of any person. The new law was a response to the Waihi Strike of

1912 and a preparation for any future industrial disputes which would involve similar forms of harassment, disorder, or protest, rather than a reaction to the 1913 strike. The original bill had been introduced into Parliament three months before the 1913 strike began. The legislation would not come into effect until 1914.<sup>155</sup> Thus, the new criminal offences had no impact on the 1913 strike or the criminal prosecutions related to the strike.<sup>156</sup>

The decision by the Massey government to suspend the provisions of the Shipping and Seamen Act, so as to allow persons not qualified as seamen to work the ships, had a more substantial effect on the strike and associated prosecutions.<sup>157</sup> If the regulations had not been suspended the New Zealand coastal vessels would not have resumed their sailings as quickly as had happened or the shipowners (or their captains) would have been prosecuted for breaking the law and endangering the safety of their passengers, their employees, and other ships. The government's action

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<sup>155</sup> See **The Dominion**, 03 December 1913, p.4, cols. 2-3; and 06 December 1913, p.5, col. 1 and p.7, cols. 7-8; and Hill, **The Iron Hand in the Velvet Glove**, pp.278 and 304.

<sup>156</sup> In mid-December 1913 Parliament also passed new legislation concerning industrial disputes (see **The Dominion**, 13 December 1913, p.6, cols. 7-8 and p.7, cols. 1-5; and 15 December 1913, p.4, cols. 5-6 and p.5, cols. 6-8). Erik Olssen, **Red Feds**, p.212, provided a useful discussion of the implications and effect of the new Act: 'The Labour Disputes Investigation Act (1913) destroyed the Red Fed option of leaving the arbitration system, yet obtaining legal protection and the right to strike by registering under the 1878 Trades Union Act. The new law replaced the Trades Union Act and severely limited the right to strike. Faced with this new alternative most unions did not hesitate to opt for arbitration'. An article published in **The Dominion** on 20 December 1913 (p.6, col. 8) on the new legislation is also worth consulting.

<sup>157</sup> See Neill Atkinson, 'Auckland Seamen and their Union, 1880-1922', (unpublished MA thesis, University of Auckland, 1990), pp.162-163; see the comments by the Hon. F. M. B. Fisher, Minister of Marine, to the annual dinner of the Wellington letter-carriers on 06 December 1913 (reported in **The Dominion**, 08 December 1913, p.8, col. 3); and see Olssen, **Red Feds**, p.202.



assisted the employers to quickly and effectively reduce the effect of the seamen's strike.

Another type of prosecution which could have been widely used by the Massey government against unions which belonged to the arbitration system but chose to strike or to provide financial assistance to the striking unions was used only sparingly. Unions registered under the Industrial Conciliation and Arbitration Act were prohibited from undertaking certain actions, including striking while an industrial award they had entered into was still current. 'Although 18 unions registered under the Arbitration Act went on strike [in late 1913], and the Supreme Court ruled it illegal for any union registered under the Arbitration Act to give financial assistance to strikers in another industry, neither the Government nor the Arbitration Court imposed penalties. The Employers' Federation, which wanted all strikers to be fined and all arbitration unions which struck to be deregistered, was outraged. The permanent secretary to the Department of Labour also recommended prosecuting those unions registered under the Arbitration Act which had struck. Yet the Massey Cabinet decided to do nothing for fear of the electoral consequences. [Arbitration Court judge] Sim, who had burnt himself first at Blackball, ignored the entire issue and his successor, who took over in March 1914, did the same in all but two cases. The new president [of the Arbitration Court], T. W. Stringer, privately threatened to suspend the awards of all arbitration unions which struck, but in the end did nothing. The idea of punishing unions which

had aided and abetted the strike was not even considered by the court or the Government.'<sup>158</sup>

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<sup>158</sup> Olssen, **Red Feds**, p.212. On the Supreme Court ruling concerning the illegality of financial donations by unions in the arbitration system to strikers in another industry see **The Dominion**, 13 December 1913, p.6, cols. 4-5; and 15 December 1913, p.4, col. 6.

## Conclusion

Protest through crime was a significant feature of the disorder and criminal prosecutions related to the 1913 General Strike in Wellington. Protest against the presence and actions of the special constables enrolled by the Massey government was central to the most serious disturbances and to a large proportion of the lesser offending. Stone-throwing, verbal abuse and threatening behaviour were the predominant types of crime against the special constables.

The 'rushes' on to the wharves by hundreds of strikers in the first week of the strike were also acts of protest. In these incidents the immediate targets of the protest were those who were willing to impede the success of the strike by loading and unloading cargo. The more symbolic targets for the protest were the shipping companies and the Harbour Board who had initiated, encouraged or assisted the strikebreaking activity. The level of violence during the wharf rushes was relatively low. There were only four assaults, and two acts of property damage. The target for both acts of property damage was the wharf barricade erected by the Wellington Harbour Board. The number of assaults and the extent of the property damage would have been much greater had the strikers not chosen to conduct their protest largely through non-violent, if disorderly and intimidating, forms of collective action.

Throughout the entire strike, violence by strikers against the persons or the property of their employers and against strikebreakers was rare. This lack of violence appears to have been the result of a combination of lack of opportunity and the unwillingness of many strikers to attack those who were

actively working to defeat the strike unless those individuals were special constables. The infrequency of assaults against strikebreakers is particularly surprising. In France, the United States, Britain, Ireland and Australia violence against strikebreakers was a substantial feature of many of the most contentious and bitter industrial disputes. In Wellington there were nearly twice as many prosecutions for assaults on strikebreakers during the 1890 Maritime Strike than there were in 1913. The numbers of assaults on strikebreakers which were reported but for which there was no prosecution were low during both strikes. (The 1890 strike in Wellington had been in nearly every other respect relatively free of violence).

Violence against the property of employers whose workers were not on strike but who were considered to have assisted the special constables was slightly more frequent. That such violence was protest was clearly understood by the offenders, the victims and the newspaper reporters. The participants in these acts of protest were a mixture of strikers and sympathisers.

It was rare for the regular police to become the victims of strike violence unless they were engaged in protecting the special constables or attempting to stop attacks which were already in progress on the property of employers who were perceived to have assisted the special constables. Much of the stone-throwing which the regular police endured was aimed at the special constables. The regulars were simply in the same vicinity. Strike related criminal prosecutions for offensive language or threatening behaviour towards regular constables were also very unusual.

Verbal protest by strike leaders against the actions of the Massey government was a prominent feature of the dispute and the criminal prosecutions. Fiery speeches denounced the enrolment, the presence in Wellington, and the actions of special constables and the assistance the state gave to the employers to reopen the ports. Some speeches encouraged or threatened violence if certain actions were taken by the government or the employers to attempt to defeat the strike (for example, brutality by the special constables, or the use of "scab" labour). A number of speeches called on the regular police and the military to consider where their 'class interests' lay and act accordingly if instructed to 'repress' the strikers. Such speeches resulted in the arrest of eight strike leaders on charges of uttering seditious words or inciting resistance to the police or inciting violence.

Desertion or similar offences by the crews of four overseas steamers generated the largest number of prosecutions related to the strike. These seamen and firemen deserted or refused to work in sympathy with the New Zealand strikers and in protest against the shipping companies who were trying to defeat the strike. These shipping companies were also the employers of these overseas seamen.

There is no evidence that theft was used as a form of protest during the strike. Violence against the property of the state was almost as infrequent.

Strike related offending (excluding desertion) was concentrated in the first two weeks of the strike (from 22 October to 05 November). After the Featherston Street riot of the afternoon of 05 November strikers and their sympathisers became less willing to openly abuse, taunt or throw stones at

the special constables. In addition, opportunities to damage property on the wharves or assault and abuse strikebreakers were limited by the hundreds of special constables and regular police guarding the wharves and patrolling the streets. The risk of arrest became too high for many potential offenders. Most of those who had joined in the rioting, property damage, threatening behaviour and verbal abuse during the first two weeks of the strike moderated their behaviour as the strike dragged on.

The response of the police to the strike and the related disorder was to intensify their efforts to control certain types of offences, in particular, socially threatening "crimes" associated with the strike. Many of the offences were very serious and would have warranted police attention in more tranquil times. Other prosecutions, especially those related to offensive language, insulting words with intent to provoke a breach of the peace, and the single loitering charge, concerned incidents which would have often been overlooked or an informal warning given before the strike.

The majority of those accused of strike related offences were strikers or other unskilled workers. As these were the groups most active in disturbances connected with the strike this is neither unexpected nor evidence of attempts to suppress legitimate (if rowdy) protest. The determination of the police to suppress violence and rioting is apparent, as is the extremely firm response to offensive and insulting language. The latter could be interpreted as repressive, but such language was illegal in public places as well as being provocative and having the potential to incite further disorder.

In at least a few instances the wrong person was arrested and prosecuted. In the confusion, excitement and tension associated with large, rowdy and hostile crowds such mistakes are not unexpected. It is almost surprising that more cases were not withdrawn or dismissed for this reason. An element of repression or anger at being attacked or verbally abused may have been influential in some of the problematic arrests, but this is impossible to conclusively prove.

The police displayed a surprising degree of restraint in making arrests. Except for desertion and related offences by seamen and ship's firemen, and the November charges against six strike leaders, there were none of the mass arrests and mass prosecutions which formed a central component of the police response to the Waihi Strike of 1912.

The analysis of conviction and sentencing patterns conducted in Chapter Six indicates that the Wellington judiciary responded firmly to the period of disorder and heightened social tensions, but that this response was neither malicious nor indiscriminate. The criminal law was not used as a means to remove (through conviction and imprisonment) all "undesirables" or potential "troublemakers" from the streets of Wellington. Simply being an enthusiastic striker or strike sympathiser was not considered by the judiciary as sufficient cause for imprisonment, even if an individual had committed an offence for which mandatory imprisonment was a sentencing option. Magistrate Riddell's refusal to grant bail forced six working class leaders to remain in jail for two to three weeks during the strike. This decision appears to have been motivated by a genuine fear that these leaders would continue their fiery speeches if released and generate more instances of serious

disorder, rather than by a desire to help defeat the strike.<sup>1</sup> Many of those who were convicted of strike related offences received longer terms of imprisonment and larger fines than were imposed prior to the strike. These sentences were intended to deter potential offenders and prevent further disorder, as well as to punish those caught. The penalties were firm but not as severe as the law allowed.

The findings summarised above demonstrate the usefulness of studying crime and criminal prosecutions during industrial disputes. Such research expands knowledge of the ways in which protest has been conducted by strikers. It compliments and adds to works which have focused primarily on the collective violence related to a strike or lockout. It provides a sound basis from which to explore why violence and crime was not used, or used only infrequently, against certain groups in particular disputes. More generally, similar research will assist those who attempt to explain why some major disputes involved considerable violence while other contentious strikes or lockouts were relatively peaceful.

The analysis of criminal prosecutions also generates valuable information on the uses made of the criminal law by the police and the judiciary during strikes and lockouts. Such findings help to dispel or confirm assertions by contemporaries to a dispute or by later writers concerning the 'repressive' nature of arrests, prosecutions, convictions and sentences. During periods of social conflict or heightened public anxiety public officials and senior police officers often issued instructions to the police to exercise less tolerance of disorderly behaviour or certain types of offences. Criminal

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<sup>1</sup> See Chapter Six, pp.281-283.



prosecutions provide a way to investigate the extent to which these orders were actually implemented by rank and file police. A careful examination of criminal prosecutions also indicates if less tolerance was exercised concerning all disorderly behaviour by any individual or only concerning particular offences by certain groups of offenders (for example, strikers) in specific areas of a city or town (for example, around the wharves). The judiciary, as well as the police, could respond to a perceived crisis with lower tolerance for offending and less leniency.

In New Zealand history there is considerable opportunity for further research on crime and criminal prosecutions during industrial disputes. Potential areas of research include case studies of crime and criminal prosecutions in the other New Zealand ports and the mining communities during the 1913 strike, as well as similar case studies of those ports and mining towns which were central to the 1890 Maritime Strike and the 1951 Waterfront Dispute. The results of the current thesis indicate that such research will be of value to those interested in labour history, the history of crime, the history of policing, the history of protest and the history of social conflict. The analysis conducted in this thesis provides a potential framework, or part of a framework, for future research on New Zealand and on other countries. In addition, the discussions in Chapters Three and Four have drawn together data from a wide range of international case studies and analyses which will hopefully be of assistance to future researchers.

Future research could also examine a number of aspects of the criminal prosecutions which have not been examined within the current thesis. The previous convictions of the accused may have considerable explanatory

power for the sentences imposed and the magistrate's belief or otherwise of evidence given by the defendant. For such an analysis to be worthwhile more than simply the number of previous convictions would need to be considered. Knowledge of the specific types of offences which resulted in conviction is vital. There is a huge difference in the criminal history of someone convicted on seven separate occasions of drunkenness compared to a person who has seven previous convictions for burglary. Information on the seriousness of each offence, the victims of the crimes, and the amount of time the accused had previously spent in prison would also be useful.<sup>2</sup> These details could account for some of any observed increase in the severity of sentences. A person with a long and serious criminal record is unlikely to receive the same leniency as a first time offender or someone who has only previously been convicted of drunkenness. If a larger proportion than usual of offenders dealt with in a particular period have serious criminal records then it is probable the overall severity of the sentences for that period will be higher than usual.

A detailed and comparative analysis of the occupations of the victims of theft before and during the strike might reveal a connection between theft and the industrial conflict which is not visible from the techniques used in the current thesis. It could be possible that theft as protest was not aimed at particular employers but at a broader section of the middle class, or even at those prosperous skilled blue collar workers who were hostile to the strike. Without a pre-strike comparative period any figures generated concerning the

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<sup>2</sup> The number of previous convictions, the specific charges involved, the sentences imposed and the amount of time spent in prison can be traced reasonably easily through the **New Zealand Police Gazette**. Details on the seriousness of each offence (including the degree of violence used, the value of items stolen, or the types

strike would be relatively meaningless.<sup>3</sup> It is also possible that a significant proportion of the victims of theft during the strike were local residents who had volunteered to be special constables.<sup>4</sup> If the fact that a victim was a special constable was not mentioned at a court hearing it would not have been reported in the newspapers. The research required to thoroughly analyse the previous convictions of the accused and the occupations of the victims would be very time consuming, but may add valuable perspectives to the overall analysis and conclusions.

In addition, examining the age of the adult accused may provide useful results. Magistrates may have been inclined to be more lenient towards relatively young offenders. If there was a considerable change in the age structure of a group of accused this could have influenced the overall severity

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of items stolen) and some information on the victims can be found by examining the relevant Criminal Record Books and newspaper court reports.

<sup>3</sup> Almost no occupations of victims were provided in the Criminal Record Books. Some occupations of victims were given in the newspaper court reports, and others can be found through electoral rolls and the annual **Wises New Zealand Post Office Directory**. Considerable care, however, must be taken when trying to match up the victim from a court record or newspaper report with the individuals in the electoral rolls or Wises street directories. For the proportion of the male workforce in New Zealand who were employed in middle class occupations in 1896, 1911 and 1926 see Meuli, 'Occupational Change and Bourgeois Proliferation', p.32. Also see David G. Pearson and David C. Thorns, **Eclipse of Equality: Social Stratification in New Zealand**, (Sydney: Allen and Unwin, 1983), p.46 for their calculation of the 'class structure' of the New Zealand workforce (including both men and women) in 1891, 1911 and 1936. Pearson and Thorns provide separate columns in their tables for male and female workers which allows comparison with Meuli's figures. In addition, Pearson and Thorns provide separate figures for skilled and unskilled members of the 'working class'. Pearson and Thorns, p.47 is also worth consulting.

<sup>4</sup> Such an analysis of theft in Christchurch would be reasonably simple to undertake because the complete lists of special constables enrolled in Christchurch is stored at Archives New Zealand, Wellington (AAAC, W3539 / 52e - 1913 Strike - Special Constable File).

or leniency of sentences.<sup>5</sup> Related factors to consider would be marital status, the number and ages of an accused's children, and previous convictions.<sup>6</sup>

Another important focus for research would be an analysis of crime and criminal prosecutions after the end of the strike. Evidence presented in Chapter Five indicates that violence and intimidation related to the 1913 strike were not limited to the duration of the dispute. Hostility between the ex-strikers and those who had acted as strikebreakers continued to be expressed through illegal acts in the following months. There is also some evidence that theft was used as post-strike retribution against strikebreakers. Further research would help determine the extent and seriousness of these offences, how long such crimes continued, and the impact on criminal prosecutions of these incidents.

Padraic Kenney argued that after the unsuccessful Poznanski Textile Strike in Łódź, Poland in September 1947 the 'younger workers, briefly active during the Poznanski strike, retreated to a form of individual protest,

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<sup>5</sup> The age of the accused is provided for almost every individual listed in the **New Zealand Police Gazette**, and for most accused in the Criminal Record Books. However, there are sometimes major discrepancies between the ages given in each of these sources. Newspaper reports sometimes provided the age of the accused, but the difference between the official record of the accused's age and the age stated in a newspaper is often considerable.

<sup>6</sup> Newspaper reports sometimes mentioned that the accused was married or was married and had children. Newspaper reports rarely commented that an accused was unmarried. It seems probable, given the reporting style of the period, that if it was stated in court that an accused was married and had children this information would be reported by the newspapers. If the accused was married but there were no children such information seems to have been less likely to be reported. It was extremely rare for the ages of an accused's children to be reported in the newspapers. Criminal Record Books and the **New Zealand Police Gazette** almost never provided details on marital status or children. The main exception concerned those women whose occupation was described in the **New Zealand Police Gazette** as 'wife'. Their

expressed, again, by theft'.<sup>7</sup> Research on post-strike crime and prosecutions may clarify if defeated strikers in other countries resorted to similar forms of protest against their employers.

The impact of the strike on post-strike policing and post-strike enforcement of the criminal law should also be examined. In Wellington on 24 December 1913 (four days after the last of the Wellington unions ended its strike) Minister of Justice Herdman wrote to the Commissioner of Police.

Complaints have been made to me of the conduct of certain of the members of the old waterside workers' Union and others who frequent Taranaki Street, Haining Street, and Frederick Street. I understand that there are a number of men with bad characters who loiter about the wharves doing occasional work and who are mostly to be found in the streets I have mentioned. In view of the representations that have been made to me I should be glad if you will instruct the Superintendent of Police to take action against any of the members of the old Union and others who are vagrants or idle and disorderly persons or who are in the habit of using bad language in the streets or who have offended against the law in any other way.<sup>8</sup>

The extent to which Herdman's instructions were implemented and the influence on criminal prosecutions of this control response against 'unacceptable' behaviour by ex-strikers are worthy of study.

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marital status is reasonably clear (it is possible that some of these women were separated from their husbands).

<sup>7</sup> Kenney, 'Working-class Community and Resistance in pre-Stalinist Poland', p.50. For a more detailed discussion of Kenney's findings see Chapter One of the current thesis, pp.14-15.

<sup>8</sup> Memo from A. L. Herdman, Minister of Justice, to the Commissioner of Police, 24 December 1913 (in '1913 Strike - North Island File' held at Archives New Zealand, Wellington - AAAC, W3539 / 52b).

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1913 Strike - Prosecution File	AAAC - W3539 / 52f

(The above files consist mainly of police records. The police used one file reference for all of the above records related to the 1913 strike. This reference was New Zealand Police 13/1968. This reference has been cited in some secondary works on the 1913 strike.)

(The 'Special Constable File' is not limited to records concerning special constables. It also contains the police records on other aspects of the 1913 strike in the South Island.)

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Appendix:A. Scheme of Occupational Classification.

The scheme of occupational classification set out below is based on the model provided by American sociologist C.Wright Mills in his book: White Collar. The American Middle Classes. Mills traced the change occurring within the American Occupational structure between mid-nineteenth century and mid-twentieth century, with particular emphasis on the expanding new middle class. The model he provides enables a clearer understanding of similar occupational changes in New Zealand as they unfolded between 1896 and 1926.

Mills breaks the workforce down into three basic groups of strata, each of which is further subdivided into its various component elements as delineated below.

OLD MIDDLE CLASS.

1. Free Professionals: those professional employers and self-employed practicing on their own account or in partnership, but independent of public and private institutions and who derive their income from fees charged for services rendered, rather than from wages or salaries. Typically then, the free professionals category will include the great majority of lawyers, doctors, dentists and architects, but very few teachers, scientists and clergymen.
2. Businessmen: consists largely of those employing staff in secondary and tertiary industry (manufacturing, servicing and processing), but also includes significant numbers of employers engaged in various branches of primary industry other than farming (i.e. fishing, forestry, mining, quarrying, gum digging, trapping and agricultural contracting), in addition to self-employed businessmen engaged in commerce (retailers dealing in meat, groceries, pastry, hardware, vehicles, softgoods etc.) and finance (dealers in property, insurance, shares and stocks) on their own account.
3. Farmers: defined as those agricultural or pastoral employers and self-employed who own or hold an independent farm unit in their own right. Includes: sheep, cattle, dairy, pig and poultry farmers, arable and mixed farmers, beekeepers, orchadists, vine growers, market gardeners, horse and stock breeders.

NEW MIDDLE CLASS.

4. Salaried Professionals: defined as being those employees whose calling requires highly specialized knowledge and long and intensive academic training, but who work on salary for some institution or other individual, rather than as independent practitioners on their own account or as employers of other professionals. Includes professionals in the employment of the state or local authorities such as: schoolteachers, vets, engineers (mechanical, structural, hydraulic, electrical, mining etc.), architects, surveyors, scientists, medical specialists, the judiciary, departmental experts and accountants; plus professionals employed by a variety of private institutions and enterprises including; clergymen, lawyers, accountants, engineers, architects, surveyors, doctors, tutors, specialist consultants et.al. .
  
5. Salespeople: defined as those mercantile employees whose occupations involve the buying, selling, marketing and exchanging of property, raw materials, goods and services. Includes those employed as commission, advertising, import and export, manufacturers, shipping, stock and station, land, finance and insurance agents. Plus head salesmen and overseers, commercial travellers, sales representatives, company promoters, auctioneers and valuers, brokers and buyers, in addition to salesmen for stockbrokers, merchants, dealers and manufacturers, retail and wholesale outlets, as well as shop assistants, shopwalkers and window dressers.
  
6. White Collar Workers: defined as constituting those whose employment is generally salaried, non-manual, non-professional, and does not warrant the wearing of work clothes or protective clothing - clerks, managers, office workers, bureaucrats and public servants of a clerical, managerial, executive, supervisory or administrative description. The three sub-groups are: (i) managerial - those employees involved in a supervisory, administrative or executive capacity with authority in institutions ranging from banks and finance companies to sawmills and coal mines.  
 (ii). clerical: those employees engaged in keeping records

or accounts and performing general office duties, including: law and bank clerks, records, filing, shipping, customs, store and tally clerks, tellers and cashiers, underwriters, actuaries, average-adjusters and insurance clerks, book-keepers and pay clerks, cost clerks and pursers, office assistants, secretaries, typists, public service clerks, cadets and civil servants (not otherwise defined).

(iii). officials: a residual category embracing white collar employees engaged in a variety of general or ill-defined capacities. Including - public service administrative officers, local body officers, military and navaal officers, law court, police and penal officers, ships, railway, friendly society public company, ferry service, tramways, telephone and harbour board officers; plus departmental inspectors and miscellaneous officials, both public and private.

#### BLUE COLLAR.

7. Skilled Manual Workers: artisans, artificers, craftsmen, tradesmen and journeymen. (self-employed and employees, including apprentices). Craft or specialist manual trades where an apprenticeship or special training is required and which generally enjoy a margin of superiority over unskilled jobs in terms of remuneration and/or job status. A typical sample would include: printers, compositors, bookbinders, watchmakers, gunsmiths, tinsmiths, manufacturing jewellers, goldsmiths, tanners and curriers, boot-makers and saddlers, butter and cheesemakers, millwrights, flour and flax millers, sawyers, bakers and confectioners, brewers, maltsters and cordial makers, butchers and fell-mongers, coopers, carpenters, builders, masons, bricklayers, plasterers, painters and decorators, glaziers, plumbers and electricians, telephone technicians, boiler-makers, motor mechanics, fitters and turners, blacksmiths, coach or motor body builders, wheelwrights and ironfounders, shipwrights and sailmakers, cabinetmakers and joiners, tailors and upholsterers, engine-, tram-, truck- and taxi drivers, railway signalmen, locomotive drivers, factory operatives and machinists, marine engineers, surveyors assistants, bargemasters and boatswains, manchester ware-housemen, plus a wide variety of foremen, gangers and overseers.

8. Unskilled Manual Workers: defined as being those engaged in labouring work, on their own account or as employees, where no apprenticeship, no formal training, no special or advanced education is required; where levels of skill, job prestige, and remuneration are relatively low; where the nature of the work is often menial, monotonous and dirty; and where little responsibility, specialization, authority or job-planning is required.

A typical sample would include: general labourers, agricultural labourers, market garden hands, building and construction labourers, sawmill and timberyard hands, road and railway labourers and navvies, ditchdiggers, scrub-cutters, bushmen, porters, hotel servants, domestic servants, storemen, packers, wharf labourers, factory hands, livery stable hands, grooms, forestry workers, fencers, harvesters, gardeners, miners, gum diggers, meat and freezing works labourers, fishermen, seamen and deckhands, dairy factory hands, flour and flax mill hands, errand boys and messengers, draymen and cart drivers, hawkers and pedlars, hospital attendants, cleaners and laundry hands, janitors and caretakers, postmen, milkmen, coalmen, oilers, greasers and stokers, chimney sweeps and dustmen, plus a host of undefined 'workers', 'wage-earners', 'assistants', and 'employees'.

After checking and re-checking the various sub-totals it was discovered that the margin of discrepancy between the male workforce total arrived at in this study and the official census figures was very slight. The official data relating to the size of the male population and male workforce is set out below:

**Appendix 2: Categorisation of Violent Crimes Committed in Wellington in the  
Twenty-four and a Half Months Before the General Strike of 1913 which  
resulted in Prosecutions in the Wellington Magistrate's Court**

Type of Violent Crime	Frequency	% of Total
<b>Against Persons:</b>		
Attempted Murder	1	0.25%
Manslaughter	1	0.25%
Discharging a Firearm with Intent to do Grievous Bodily Harm	1	0.25%
Unlawful Wounding with Intention to do Grievous Bodily Harm	1	0.25%
Actual Bodily Harm with Intent to do Grievous Bodily Harm	1	0.25%
Assault so as to cause Actual Bodily Harm	8	2.01%
Aggravated Assault	6	1.51%
Assault with Intent to do Grievous Bodily Harm	1	0.25%
Assault (including 88 private prosecutions - 46.56%)	189	47.49%
Assault - by presenting a revolver	1	0.25%
Assault and Robbery	5	1.26%
Assault with Intent to Rob	1	0.25%
Threatening Behaviour whereby a Breach of the Peace was occasioned = fighting (107 individuals charged)	65	16.33%
Sending a death threat	1	0.25%
Molestation while a separation order was in effect	2	0.50%
Owner of a dog which attacked a person whereby the limbs of said person were endangered	6	1.51%
Discharging a Revolver to the Danger of Passers By	1	0.25%
Throwing a stone to the danger of persons	1	0.25%
Throwing glass	2	0.50%
<b>Total (Violence Against Persons):</b>	<b>294</b>	<b>73.87%</b>
<b>Against Property:</b>		
Arson	3	0.75%
Wilful damage or destruction:		
of windows and other glass panels	42	10.55%
of electric lights, power lines, or street lamps (25 charges)	10	2.51%
of a dwelling house	1	0.25%
of doors (excluding cell doors & glass door panels)	7	1.76%
of police (or prison) buildings or facilities	5	1.26%
of items of police uniforms	15	3.77%
of two church money boxes	1	0.25%
of a fortune telling machine	1	0.25%
of one billiard cloth	1	0.25%
of one flower pot	1	0.25%
of one whisky decanter	1	0.25%
of clothing (excluding police uniforms)	1	0.25%
of one set of china ware and two panes of glass	1	0.25%
of two cocks, two ornaments & one candlestick	1	0.25%
of trees (16 juveniles charged)	1	0.25%
of a number of Mallard & Muscovy duck eggs	1	0.25%
of one set of false teeth	1	0.25%
Throwing a missile or stone to the danger of property	4	1.01%
Throwing a stone(s) to the damage of certain property	6	1.51%
<b>Total (Violence Against Property):</b>	<b>104</b>	<b>26.13%</b>
<b>Total All Violent Crime:</b>	<b>398</b>	<b>100.00%</b>



**Appendix 3a: Categorisation of Theft Committed in Wellington in the Twenty-four and a Half Months Before the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

Type of Larceny	Frequency	% of Total
Aiding the Commission of an Offence	1	0.12%
Attempted Breaking and Entering	1	0.12%
Attempted False Pretences with Intent to Defraud	5	0.61%
Attempted Theft	7	0.86%
Breaking and Entering (nothing stolen)	8	0.98%
Breaking and Entering & Committing Theft	52	6.37%
Conspiring to defraud	1	0.12%
False Pretences (to obtain £ or goods)	19	2.33%
Forging a cheque (to obtain £ or goods)	17	2.08%
Intent to Defraud [Sending False Telegram]	1	0.12%
Possession of certain instruments of house-breaking	3	0.37%
Receiving stolen property	16	1.96%
Theft	684	83.82%
Using counterfeit current gold coins	1	0.12%
<b>Total Larceny:</b>	<b>816</b>	<b>100.00%</b>

**Appendix 3b: Types of Items Stolen in Theft Committed in Wellington in the Twenty-four and a Half Months Before the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

Type of Items Stolen	Frequency	% of Total
(including the attempted thefts)		
Animals and / or Animal Related Goods	16	2.08%
Bag & Unspecified "Contents"	6	0.78%
Bag & Household Items	1	0.13%
Bicycles	43	5.60%
Bicycle Accessories	4	0.52%
Building materials / raw materials	22	2.86%
Cart	1	0.13%
Cheques / Money Orders / Postal Notes	17	2.21%
Clothing:	189	24.61%
Boots / Shoes	47	6.12%
Coats / Overcoats	61	7.94%
Miscellaneous	81	10.55%
Clothing & a Bag	4	0.52%
Clothing, Household Items, & Food	1	0.13%
Clothing & Household Items	8	1.04%
Clothing & Money	8	1.04%
Clothing & Tools	1	0.13%

Appendix 3b: Types of Items Stolen (continued)				
Type of Items Stolen				
		Frequency	% of Total	
Clothing & Valuable Goods		4	0.52%	
Clothing & Unspecified Items		2	0.26%	
Coal		2	0.26%	
Empty Bags		8	1.04%	
Empty Containers (sacks, bottles)		5	0.65%	
Firearms		7	0.91%	
Foodstuffs:		46	5.99%	
	Alcohol	2		0.26%
	Food	26		3.39%
	Tobacco	13		1.69%
	Tobacco and Food	5		0.65%
Fountain Pens		2	0.26%	
Government Statutes		14	1.82%	
Household Goods		56	7.29%	
Household Goods & Food		2	0.26%	
Household Goods & Tools		2	0.26%	
Hurricane Lamp / Brass Port Lights		3	0.39%	
Letters: often containing cheques, stamps		11	1.43%	
Money		153	19.92%	
Money & Food		2	0.26%	
Money & Handbag / Purse		5	0.65%	
Money & Household Goods		1	0.13%	
Money & Tobacco		1	0.13%	
Money & Unspecified "Goods"		5	0.65%	
Money, Valuables, & Clothing		2	0.26%	
Money & Valuables		6	0.78%	
Postage Stamps		3	0.39%	
Valuables:		85	11.07%	
	Combination of jewellery	28		3.65%
	Rings	21		2.73%
	Watches	23		2.99%
	Jewellery and household goods	5		0.65%
	Other valuable goods	8		1.04%
Railway Tickets		1	0.13%	
Tools		8	1.04%	
Tools & Building materials / raw materials		3	0.39%	
Unspecified "Goods"		4	0.52%	
Other Miscellaneous Items		4	0.52%	
Total instances where items stolen:		768	100.00%	

**Appendix 4: Categorisation of Crimes Against the State Committed in Wellington in the Twenty-four and a Half Months Before the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

Type of Crime Against the State	Frequency	% of Total
<b>Violence Against the State</b>		
<b>Against Persons</b>		
Assault against police constables	12	30.77%
Threatening Behaviour whereby a Breach of the Peace was occasioned	2	5.13%
<b>Against Property</b>		
Wilful damage or destruction:		
of items of police uniforms	15	38.46%
of a policeman's set of false teeth	1	2.56%
of police (or prison) buildings or facilities	5	12.82%
of one pane of glass at Lambton Railway Station	1	2.56%
of one railway carriage window	1	2.56%
of pane(s) of glass - exact location not stated	2	5.13%
<b>Total Violent Crime Against the State:</b>	<b>39</b>	<b>100.00%</b>
<b>Theft Against the State</b>		
Theft	15	88.24%
Receiving stolen property (two fish)	1	5.88%
Attempted Breaking and Entering	1	5.88%
<b>Total Theft Against the State:</b>	<b>17</b>	<b>100.00%</b>
<b>Other Offences Against the State</b>		
Escape from a place of legal confinement / prison	5	2.07%
Drunk while in possession of firearms and ammunition	2	0.83%
Discharging / unlawful use of a firearm	2	0.83%
Carrying a loaded firearm	1	0.41%
Possession of Firearm(s)	3	1.24%
Threatening Behaviour with intent to provoke a Breach of the Peace	1	0.41%
Obscene Language	156	64.46%
- none using the term "scab", or similar term		
Resisting Arrest	46	19.01%
Obstruction	19	7.85%
Inciting to resist Police	3	1.24%
Attempt to avoid the detection of a crime by the police	1	0.41%
Attempt to smuggle items to prisoners	2	0.83%
One horse at large on Parliament Grounds	1	0.41%
<b>Total All Other Offences Against the State:</b>	<b>242</b>	<b>100.00%</b>
<b>Total Crime Against the State:</b>	<b>298</b>	

**Appendix 5: Crimes Against the State Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court  
- categorised by who the victims were**

**Appendix 5a: Crimes Against Special Constables Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

<b>a) Crimes Against Special Constables: (all strike related)</b>				
<b>Type of Crime Against Special Constables</b>		<b>Frequency</b>	<b>% of</b>	<b>Use of the</b>
			<b>Total</b>	<b>term scab</b>
<b>Violence Against Special Constables - All Against the Person</b>				<b>or similar</b>
Intention to do Grievous Bodily Harm with a Firearm		1	5.56%	
Intention to do Grievous Bodily Harm / causing Actual Bodily Harm		2	11.11%	
Assault against special constables		12	66.67%	
Threatening Behaviour whereby a Breach of the Peace was occasioned - in connection with "riots" (3)		3	16.67%	
<b>Total Violent Crime Against Special Constables:</b>		<b>18</b>	<b>100.00%</b>	
<b>Theft from Special Constables</b>				
<b>Total Theft from Special Constables:</b>		<b>0</b>		
<b>Other Crimes Against the State</b>		<b>Frequency</b>	<b>% of</b>	<b>term scab</b>
<b>(with special constables as the victims)</b>			<b>Total</b>	<b>or similar</b>
Taking Part in a Riot		16	34.78%	
Taking Part in an Unlawful Assembly		4	8.70%	
Encouraging diverse persons to assault certain special constables - by providing the said persons with missiles to throw		1	2.17%	
Threatening Behaviour		3	6.52%	
Threatening Behaviour with Intent to Provoke a Breach of the Peace		1	2.17%	
Insulting Words with Intent to Provoke a Breach of the Peace		7	15.22%	
- using the term "scab", or similar term				6
Attempting to Provoke a Breach of the Peace		2	4.35%	2
Obscene Language		8	17.39%	
- using the term "scab", or similar term				2
Loitering in a public place		1	2.17%	
Resisting Arrest		0	0.00%	
Obstruction		0	0.00%	
Driving a motor-car in a dangerous manner (victims: special constables)		1	2.17%	
Negligently driving a tramcar (victims: special constables)		1	2.17%	
Did not stop vehicle engine as requested to by constable		1	2.17%	
<b>Total All Other Crime Against the State (victims special constables):</b>		<b>46</b>	<b>100.00%</b>	<b>10</b>
<b>Total All Crime Against the State (with special constables as the victims):</b>		<b>64</b>		

**Appendix 5b: Crimes Against the Regular Police Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**

<b>b) Crimes Against Regular Police:</b>				
<b>Type of Crime Against the State</b>		<b>Frequency</b>	<b>% of Total</b>	<b>Use of the term scab or similar</b>
<b>Violence Against the Regular Police</b>				
<b>Against Persons</b>				
Attempted Murder of the Commissioner of Police (charge not proven)		1	10.00%	
Assault against regular police (6 strike related; 1 not strike related)		7	70.00%	
<b>Against Property</b>				
Wilful damage or destruction: of a cell door (1); of a pane of glass (1)		2	20.00%	
<b>Total Violent Crime Against the Regular Police:</b>		<b>10</b>	<b>100.00%</b>	
<b>Theft from Regular Police</b>				
<b>Total Theft from the Regular Police:</b>		<b>0</b>		
<b>Other Crimes Against the State (with regular police as the victims)</b>			<b>% of Total</b>	<b>term scab or similar</b>
Taking Part in a Riot		3	12.00%	
Threatening Behaviour		1	4.00%	
Threatening Behaviour with Intent to Provoke a Breach of the Peace		1	4.00%	
Insulting Words with Intent to Provoke a Breach of the Peace		1	4.00%	
- using the term "scab", or similar term				0
Obscene Language (3 strike related; 5 not strike related)		8	32.00%	
- using the term "scab", or similar term				2
Did Commit Mischief by Burning two panels of a padded cell		1	4.00%	
Resisting Arrest (none strike related)		7	28.00%	
Obstruction (none strike related)		2	8.00%	
Did not exhibit license for vehicle when requested to by police constable		1	4.00%	
<b>Total All Other Crime Against the State (victims regular police):</b>		<b>25</b>	<b>100.00%</b>	<b>2</b>
<b>Total All Crime Against the State (with regular police as the victims):</b>		<b>35</b>		

**Appendix 5c: Crimes Against Both Regular Police and Special Constables  
Committed in Wellington During the General Strike of 1913 which resulted in  
Prosecutions in the Wellington Magistrate's Court**

<b>c) Crimes Against both Regular Police and Special Constables:</b>		
<b>Type of Crime Against the State</b>		<b>Frequency</b>
<b>Other Crimes Against the State</b>		
	Taking Part in a Riot	2
	Inciting diverse persons to assault police and special constables	1
<b>Total All Crimes Against both Regular Police and Special Constables:</b>		<b>3</b>

**Appendix 5d: Crimes Against the Authority of the State Committed in Wellington  
During the General Strike of 1913 which resulted in Prosecutions in the  
Wellington Magistrate's Court**

<b>d) Crimes Against the Authority of the State:</b>				
<b>- which have no specific persons as the victims</b>				
		<b>Frequency</b>	<b>% of</b>	<b>Use of the</b>
			<b>Total</b>	<b>term scab</b>
<b>Type of Crime Against the State</b>			<b>(of 141)</b>	<b>or similar</b>
	Inciting diverse persons to assault / resist police constables	4	2.84%	
	Inciting a breach of the peace / persons to commit a breach of the peace	5	3.55%	
	Uttering Certain Seditious Words	5	3.55%	
	Application for sureties of the peace by the State (based on seditious words)	3	2.13%	
	Deemed to be a Rogue & a Vagabond found with an offensive weapon	2	1.42%	
<b>Total All Crimes Against the Authority of the State:</b>		<b>19</b>	<b>13.48%</b>	<b>0</b>

**Appendix 6: Occupations of those Accused of Strike Related Crimes where  
the Victims were Regular Police or Special Constables**  
**Type of Crimes: Violence against the Person, Taking Part in a Riot or Unlawful  
Assembly, Insulting Language, and Threatening Behaviour**

Date of offences: during the 1913 General Strike; Location: Wellington

Court of initial jurisdiction: Wellington Magistrate's Court

Total number of relevant charges: 76

Total number of relevant accused: 53

**Table A: Occupations (Grouped by Broad Categories) of these Accused**

	Frequency	% of Relevant Accused	
Middle Class	1	1.89%	
Blue Collar	51	96.23%	
skilled <sup>1</sup>		7	13.21%
unskilled		43	81.13%
unclear if skilled or unskilled		1	1.89%
Schoolboys	0	0.00%	
Other Juveniles	0	0.00%	
Unknown	1	1.89%	
<b>Total:</b>	<b>53</b>	<b>100.00%</b>	

**Table B: Role in Strike of these Accused**

		% of Relevant	
Role in Strike	Frequency	Accused	
Strikers	21	39.62%	
watersiders	19		
seamen	1		
carters / drivers	0		
wife of a watersider	1		
Non-strikers	13	24.53%	
in strike type occupations <sup>2</sup>	2		
in non-striking occupations	10		
exact occupation unknown <sup>3</sup>	1		
Unclear if strikers or non-strikers	19	35.85%	
driver	2		
fireman	2		
labourer	7		
seaman	8		
<b>Total:</b>	<b>53</b>	<b>100.00%</b>	

<sup>1</sup> One of these skilled blue collar workers was apparently both a carpenter (New Zealand Police Gazette, 1913, pp.752 and 789) and a 'waterside worker, who is on strike' (The Dominion, 11 December 1913, p.8, col. 5).

<sup>2</sup> One seaman and one driver who were not on strike. The driver stated in court that he was not sympathetic towards the strike. The seaman commented he was sympathetic towards the strikers.

<sup>3</sup> The Dominion, 07 November 1913, p.8, col. 3, describes the accused as having been employed at Hutson's brickworks for the past five years. It is not stated what the accused actually did at the brickworks, and the accused is not listed in the New Zealand Police Gazette.

**Appendix 6 (continued):**

**Occupations of those Accused of Strike Related Crimes where the Victims were Regular Police or Special Constables**

**Table C: Specific Occupations of these Accused  
(where the victims were regular police or special constables)**

				% of all middle		
Middle Class		no.		class accused		% of all accused
				(of these offences)		(of these offences)
	clerk	1		100.00%		1.89%
	Total:	1		100.00%		1.89%
				% of all blue		
Blue Collar		no.		collar accused		% of all accused
				(of these offences)		(of these offences)
a) Skilled Manual Workers:						
	bootmaker	1		1.96%		1.89%
	carpenter [on strike] <sup>4</sup>	1		1.96%		1.89%
	engine-driver	2		3.92%		3.77%
	fire brigade man	1		1.96%		1.89%
	tram motorman / tram driver	2		3.92%		3.77%
	Total - skilled:	7		13.73%		13.21%
b) Unskilled Manual Workers:						
	barman	1		1.96%		1.89%
	bottlewasher	1		1.96%		1.89%
	driver	3		5.88%		5.66%
	fireman	2		3.92%		3.77%
	labourer	25		49.02%		47.17%
	including 18 wharf labourers / watersiders					
	seaman	10		19.61%		18.87%
	wife of a waterside worker	1		1.96%		1.89%
	leaders of unskilled manual workers' unions and strikes:					
		0		0.00%		0.00%
	Total - unskilled:	43		84.31%		81.13%
c) Uncertain whether Skilled or Unskilled:						
	asylum attendant	1		1.96%		1.89%
	Total uncertain:	1		1.96%		1.89%
Occupation Unknown:		1		na		1.89%
Total All Relevant Accused:		53		-		100.00%

<sup>4</sup> See footnote 1 on previous page.



**Appendix 6b: Occupations of those Accused of Strike Related Crimes where the Victims were Special Constables**

**Type of Crimes: Violence against the Person, Taking Part in a Riot or Unlawful Assembly, Insulting Language, and Threatening Behaviour**

Date of offences: during the 1913 General Strike

Location: Wellington

Court of initial jurisdiction: Wellington Magistrate's Court

Total number of relevant charges: 61 <sup>5</sup>

Total number of relevant accused: 45

**Table A: Occupations (Grouped by Broad Categories) of these Accused (where the victims were special constables)**

		Frequency	% of Relevant Accused
Middle Class		1	2.22%
Blue Collar		43	95.56%
	skilled <sup>6</sup>	7	15.56%
	unskilled	35	77.78%
	unclear if skilled or unskilled	1	2.22%
Schoolboys		0	0.00%
Other Juveniles		0	0.00%
Unknown		1	2.22%
<b>Total:</b>		<b>45</b>	<b>100.00%</b>

**Table B: Role in Strike of these Accused (where the victims were special constables)**

Role in Strike	Frequency	% of Relevant Accused
Strikers	19	42.22%
	watersiders	17
	seamen	1
	carters / drivers	0
	wife of a watersider	1
Non-strikers	11	24.44%
	in strike type occupations <sup>7</sup>	1
	in non-striking occupations	9
	exact occupation unknown <sup>8</sup>	1
Unclear if strikers or non-strikers	15	33.33%
	driver	2
	fireman	2
	labourer	3
	seaman	8
<b>Total:</b>	<b>45</b>	<b>100.00%</b>

<sup>5</sup> Including the two offences (both rioting) where the victims were a combination of specials and regular police.

<sup>6</sup> See footnote 1 related to Appendix 6.

<sup>7</sup> One seaman who was not on strike. The seaman commented in court that he was sympathetic towards the strikers.

<sup>8</sup> See footnote 3 related to Appendix 6.

**Appendix 6b (continued):**

**Occupations of those Accused of Strike Related Crimes where the Victims were Special Constables**

**Table C: Specific Occupations of these Accused  
(where the victims were special constables)**

				% of all middle		
Middle Class		no.		class accused		% of all accused
				(of these offences)		(of these offences)
	clerk	1		100.00%		2.22%
	Total:	1		100.00%		2.22%
				% of all blue		
Blue Collar		no.		collar accused		% of all accused
				(of these offences)		(of these offences)
a) Skilled Manual Workers:						
	bootmaker	1		2.33%		2.22%
	carpenter [on strike] <sup>9</sup>	1		2.33%		2.22%
	engine-driver	2		4.65%		4.44%
	fire brigade man	1		2.33%		2.22%
	tram motorman / tram driver	2		4.65%		4.44%
	Total - skilled:	7		16.28%		15.56%
b) Unskilled Manual Workers:						
	barman	1		2.33%		2.22%
	driver	2		4.65%		4.44%
	fireman	2		4.65%		4.44%
	labourer	19		44.19%		42.22%
	including 16 wharf labourers / watersiders					
	seaman	10		23.26%		22.22%
	wife of a waterside worker	1		2.33%		2.22%
	leaders of unskilled manual workers' unions and strikes:					
		0		0.00%		0.00%
	Total - unskilled:	35		81.40%		77.78%
c) Uncertain whether Skilled or Unskilled:						
	asylum attendant	1		2.33%		2.22%
	Total uncertain:	1		2.33%		2.22%
Occupation Unknown:		1		na		2.22%
Total All Relevant Accused:		45		-		100.00%

<sup>9</sup> See footnote 1 related to Appendix 6.

**Appendix 6c: Occupations of those Accused of Strike Related Crimes  
where the Victims were Regular Police**

**Type of Crimes: Violence against the Person, Taking Part in a Riot or  
Unlawful Assembly, Insulting Language, and Threatening Behaviour**

Date of offences: during the 1913 General Strike

Location: Wellington

Court of initial jurisdiction: Wellington Magistrate's Court

Total number of relevant charges: 17 <sup>10</sup>

Total number of relevant accused: 13

**Table A: Occupations (Grouped by Broad Categories) of these Accused  
(where the victims were regular police)**

		Frequency		% of Relevant Accused	
Middle Class		0		0.00%	
Blue Collar		13		100.00%	
	skilled		0		0.00%
	unskilled		13		100.00%
	unclear if skilled or unskilled		0		0.00%
Schoolboys		0		0.00%	
Other Juveniles		0		0.00%	
Unknown		0		0.00%	
<b>Total:</b>		<b>13</b>		<b>100.00%</b>	

**Table B: Role in Strike of these Accused  
(where the victims were regular police)**

Role in Strike		Frequency		% of Relevant Accused
Strikers		6		46.15%
	watersiders		6	
Non-strikers		2		15.38%
	in strike type occupations <sup>11</sup>		1	
	in non-striking occupations		1	
Unclear if strikers or non-strikers		5		38.46%
	labourer		5	
<b>Total:</b>		<b>13</b>		<b>100.00%</b>

<sup>10</sup> Including the two offences (both rioting) where the victims were a combination of specials and regular police.

<sup>11</sup> One driver who was not on strike. The driver also stated in court that he was not sympathetic towards the strike.

**Appendix 6c (continued):**

**Occupations of those Accused of Strike Related Crimes where the Victims were Regular Police**

**Table C: Specific Occupations of these Accused  
(where the victims were regular police)**

				% of all middle	
<b>Middle Class</b>	no.			class accused	% of all accused
				(of these offences)	(of these offences)
clerk	0			na	0.00%
<b>Total:</b>	<b>0</b>			<b>na</b>	<b>0.00%</b>
				% of all blue	
<b>Blue Collar</b>	no.			collar accused	% of all accused
				(of these offences)	(of these offences)
<b>a) Skilled Manual Workers:</b>					
<b>Total - skilled:</b>	<b>0</b>			<b>0.00%</b>	<b>0.00%</b>
<b>b) Unskilled Manual Workers:</b>					
bottlewasher	1			7.69%	7.69%
driver	1			7.69%	7.69%
labourer	11			84.62%	84.62%
including 6 wharf labourers / watersiders					
leaders of unskilled manual workers' unions and strikes:					
	0			0.00%	0.00%
<b>Total - unskilled:</b>	<b>13</b>			<b>100.00%</b>	<b>100.00%</b>
<b>c) Uncertain whether Skilled or Unskilled:</b>					
<b>Total uncertain:</b>	<b>0</b>			<b>0.00%</b>	<b>0.00%</b>
<b>Occupation Unknown:</b>	<b>0</b>			<b>na</b>	<b>0.00%</b>
<b>Total All Relevant Accused:</b>	<b>13</b>			<b>-</b>	<b>100.00%</b>

## Appendix 7: Pleas

Table 7a: excluding private prosecutions and excluding juvenile accused

Table 7b: including private prosecutions and juvenile accused

Table 7c: private prosecutions only

Table 7d: juvenile accused only

Table 7e: combined totals of strike related and not strike related offences

**Table 7a: Comparison of the Pleas of those Accused of Offences in Wellington During and in the Twenty-four and a Half Months Before the General Strike of 1913**  
(excluding private prosecutions and excluding juvenile accused) <sup>1</sup>

Type of Crime	During Strike		During Strike		Pre-Strike (01 Oct 1911 to 17 Oct 1913)	
	Strike Related No.	%	not Strike Related No.	%	No.	%
<b>All Violent Crime:</b>						
Pleaded Guilty	17	36.17%	18	60.00%	196	57.82%
Pleaded Not Guilty	29	61.70%	11	36.67%	123	36.28%
No Plea Recorded	1	2.13%	1	3.33%	20	5.90%
<b>All Other Crime Against State:</b>						
Pleaded Guilty	32	32.99%	26	60.47%	172	71.97%
Pleaded Not Guilty	47	48.45%	12	27.91%	59	24.69%
No Plea Recorded	18	18.56%	5	11.63%	8	3.35%
<hr/>						
<b>All Crimes Prosecuted in Wellington: (excluding Theft)</b>						
Pleaded Guilty	49	34.03%	44	60.27%	368	63.67%
Pleaded Not Guilty	76	52.78%	23	31.51%	182	31.49%
No Plea Recorded	19	13.19%	6	8.22%	28	4.84%
Total:	144	100.00%	73	100.00%	578	100.00%
<hr/>						
<b>All Theft:</b>						
Pleaded Guilty	-	-	59	72.84%	536	75.07%
Pleaded Not Guilty	-	-	17	20.99%	158	22.13%
No Plea Recorded	-	-	5	6.17%	20	2.80%

<sup>1</sup> For the relevant statistics excluding private prosecutions only see Table 14, p.233.

**Table 7b: Comparison of the Pleas of those Accused of Offences in Wellington During and in the Twenty-four and a Half Months Before the General Strike of 1913**  
(including private prosecutions and juvenile accused) <sup>2</sup>

Type of Crime	During Strike		During Strike		Pre-Strike (01 Oct 1911 to 17 Oct 1913)	
	Strike Related		not Strike Related			
	No.	%	No.	%	No.	%
<b>All Violent Crime:</b>						
Pleaded Guilty	17	36.17%	22	55.00%	253	50.30%
Pleaded Not Guilty	29	61.70%	14	35.00%	177	35.19%
No Plea Recorded	1	2.13%	4	10.00%	73	14.51%
<b>All Other Crime Against State:</b>						
Pleaded Guilty	32	32.99%	31	64.58%	188	73.73%
Pleaded Not Guilty	47	48.45%	12	25.00%	59	23.14%
No Plea Recorded	18	18.56%	5	10.42%	8	3.14%
<hr/>						
<b>All Crimes Prosecuted in Wellington: (excluding Theft)</b>						
Pleaded Guilty	49	34.03%	53	60.23%	441	58.18%
Pleaded Not Guilty	76	52.78%	26	29.55%	236	31.13%
No Plea Recorded	19	13.19%	9	10.23%	81	10.69%
Total:	144	100.00%	88	100.00%	758	100.00%
<hr/>						
<b>All Theft:</b>						
Pleaded Guilty	-	-	63	74.12%	728	75.52%
Pleaded Not Guilty	-	-	17	20.00%	202	20.95%
No Plea Recorded	-	-	5	5.88%	34	3.53%

<sup>2</sup> This table includes every offence examined as part of this thesis. For a discussion of the impact and significance of the private prosecutions see Chapter Six, footnote 32, p.233.

**Table 7c: Comparison of the Pleas of those Accused of Offences in  
Wellington During and in the Twenty-four and a Half Months Before the  
General Strike of 1913  
(private prosecutions only)**

Type of Crime	During Strike		During Strike		Pre-Strike	
	Strike Related		not Strike Related		(01 Oct 1911 to 17 Oct 1913)	
	No.	%	No.	%	No.	%
<b>All Violent Crime:</b>						
Pleaded Guilty	-	-	0	0.00%	13	13.27%
Pleaded Not Guilty	-	-	1	25.00%	36	36.73%
No Plea Recorded	-	-	3	75.00%	49	50.00%
<b>All Other Crime Against State:</b>						
Pleaded Guilty	-	-	-	-	-	-
Pleaded Not Guilty	-	-	-	-	-	-
No Plea Recorded	-	-	-	-	-	-
<b>All Theft:</b>						
Pleaded Guilty	-	-	-	-	3	14.29%
Pleaded Not Guilty	-	-	-	-	16	76.19%
No Plea Recorded	-	-	-	-	2	9.52%

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**Table 7d: Comparison of the Pleas of those Accused of Offences in Wellington During and in the Twenty-four and a Half Months Before the General Strike of 1913 (juvenile accused only)**

Type of Crime	During Strike		During Strike		Pre-Strike (01 Oct 1911 to 17 Oct 1913)	
	Strike Related No.	%	not Strike Related No.	%	No.	%
<b>All Violent Crime:</b>						
Pleaded Guilty	-	-	4	66.67%	44	66.67%
Pleaded Not Guilty	-	-	2	33.33%	18	27.27%
No Plea Recorded	-	-	0	0.00%	4	6.06%
<b>All Other Crime Against State:</b>						
Pleaded Guilty	-	-	5	100.00%	16	100.00%
Pleaded Not Guilty	-	-	0	0.00%	0	0.00%
No Plea Recorded	-	-	0	0.00%	0	0.00%
<hr/>						
<b>All Crimes Prosecuted in Wellington: (excluding Theft)</b>						
Pleaded Guilty	-	-	9	81.82%	60	73.17%
Pleaded Not Guilty	-	-	2	18.18%	18	21.95%
No Plea Recorded	-	-	0	0.00%	4	4.88%
Total:	0	-	11	100.00%	82	100.00%
<hr/>						
<b>All Theft:</b>						
Pleaded Guilty	-	-	4	50.00%	189	82.53%
Pleaded Not Guilty	-	-	0	0.00%	28	12.23%
No Plea Recorded	-	-	4	50.00%	12	5.24%



**Table 7e: Comparison of the Pleas of those Accused of Offences in Wellington During and in the Twenty-four and a Half Months Before the General Strike of 1913**  
(combined totals of strike related and not strike related offences) <sup>3</sup>

Type of Crime	1. Excluding private prosecutions and excluding juvenile accused				2. Including all offences			
	During Strike <sup>4</sup>		Pre-Strike		During Strike <sup>5</sup>		Pre-Strike	
	No.	%	No.	%	No.	%	No.	%
<b>All Violent Crime:</b>								
Pleaded Guilty	35	45.45%	196	57.82%	39	44.83%	253	50.30%
Pleaded Not Guilty	40	51.95%	123	36.28%	43	49.43%	177	35.19%
No Plea Recorded	2	2.60%	20	5.90%	5	5.75%	73	14.51%
<b>All Other Crime Against State:</b>								
Pleaded Guilty	58	41.43%	172	71.97%	63	43.45%	188	73.73%
Pleaded Not Guilty	59	42.14%	59	24.69%	59	40.69%	59	23.14%
No Plea Recorded	23	16.43%	8	3.35%	23	15.86%	8	3.14%
<hr/>								
<b>All Crimes Prosecuted in Wellington:</b>								
<b>(excluding Theft)</b>								
Pleaded Guilty	93	42.86%	368	63.67%	102	43.97%	441	58.18%
Pleaded Not Guilty	99	45.62%	182	31.49%	102	43.97%	236	31.13%
No Plea Recorded	25	11.52%	28	4.84%	28	12.07%	81	10.69%
Total:	217	100.00%	578	100.00%	232	100.00%	758	100.00%
<hr/>								
<b>All Theft:</b>								
Pleaded Guilty	59	72.84%	536	75.07%	63	74.12%	728	75.52%
Pleaded Not Guilty	17	20.99%	158	22.13%	17	20.00%	202	20.95%
No Plea Recorded	5	6.17%	20	2.80%	5	5.88%	34	3.53%

<sup>3</sup> For the relevant strike related and non-strike related statistics see Table 14, p.233, Appendix 7, Table 7a, and Appendix 7, Table 7b.

<sup>4</sup> The figures below include both strike related and non-strike related offences.

<sup>5</sup> The figures below include both strike related and non-strike related offences.

**Table 7e: continued:**

Type of Crime	3. Only excluding private prosecutions			
	During Strike <sup>6</sup>		Pre-Strike	
	No.	%	No.	%
<b>All Violent Crime:</b>				
Pleaded Guilty	39	46.99%	240	59.26%
Pleaded Not Guilty	42	50.60%	141	34.81%
No Plea Recorded	2	2.41%	24	5.93%
<b>All Other Crime Against State:</b>				
Pleaded Guilty	58	41.43%	188	73.73%
Pleaded Not Guilty	59	42.14%	59	23.14%
No Plea Recorded	23	16.43%	8	3.14%
<hr/>				
<b>All Crimes Prosecuted in Wellington: (excluding Theft)</b>				
Pleaded Guilty	97	43.50%	428	64.85%
Pleaded Not Guilty	101	45.29%	200	30.30%
No Plea Recorded	25	11.21%	32	4.85%
Total:	223	100.00%	660	100.00%
<hr/>				
<b>All Theft:</b>				
Pleaded Guilty	63	74.12%	725	76.88%
Pleaded Not Guilty	17	20.00%	186	19.72%
No Plea Recorded	5	5.88%	32	3.39%

<sup>6</sup> The figures below include both strike related and non-strike related offences.

**Appendix 8: Cases Withdrawn - Wellington  
(1913 Strike Period non-Strike Related Offences)**

Type of Crime		Total No. of Prosecutions for that Type of Crime			Withdrawn	
					No.	%
<b>Violent Crime:</b>						
<b>a) Violent Crime Against Persons:</b>						
Assault (none involving police constables)		13			3	23.08%
<b>a) Total Violent Crime Against Persons:</b>		23			3	13.04%
<b>b) Violent Crime Against Property:</b>						
no charges of violent crime against property withdrawn						
<b>b) Total Violent Crime Against Property:</b>		10			0	0.00%
<b>Total All Non-Strike Related Violent Crime:</b>		33			3	9.09%
<b>Larceny:</b>						
Theft		65			1	1.54%
<b>Total Non-Strike Related Larceny:</b>		82			1	1.22%
<b>Other Crimes Against the State:</b>						
Threatening Behaviour		2			1	50.00%
Obscene Language		27			1	3.70%
<b>Total Other Crimes Against the State:</b>		44			2	4.55%

**Appendix 9: Gender of those Accused of Crimes Committed in  
Wellington During and in the Twenty-four and a Half Months Before the  
General Strike of 1913 which resulted in Prosecutions in the Wellington  
Magistrate's Court**

(subcategorised by whether the accused was an adult or a juvenile) <sup>1</sup>

<b>a) Strike Related Crime:</b>			<b>18 October 1913 to 20 December 1913:</b>					
no. of charges			Man	Woman	Boy	Girl	Unknown	Total
47	<b>All Violent Crime</b>		44	3	-	-	-	47
			93.62%	6.38%	0.00%	0.00%	0.00%	100.00%
0	<b>All Theft:</b>		-	-	-	-	-	-
			-	-	-	-	-	0.00%
97	<b>All Other Crime</b>		95	2	-	-	-	97
	<b>Against State:</b>		97.94%	2.06%	0.00%	0.00%	0.00%	100.00%
144	<b>Total All Charges:</b>		139	5	0	0	0	144
			96.53%	3.47%	0.00%	0.00%	0.00%	100.00%
<b>b) Non-Strike Related Crime:</b>			<b>18 October 1913 to 20 December 1913:</b>					
<b>(excluding theft)</b>								
no. of charges			Man	Woman	Boy	Girl	Unknown	Total
40	<b>All Violent Crime</b>		28	6	6	-	-	40
			70.00%	15.00%	15.00%	0.00%	0.00%	100.00%
48	<b>All Other Crime</b>		35	7	5	-	1	48
	<b>Against State:</b>		72.92%	14.58%	10.42%	0.00%	2.08%	100.00%
88	<b>Total All Charges:</b>		63	13	11	0	1	88
			71.59%	14.77%	12.50%	0.00%	1.14%	100.00%
<b>c) All Strike Period Crime:</b>			<b>18 October 1913 to 20 December 1913:</b>					
no. of charges			Man	Woman	Boy	Girl	Unknown	Total
87	<b>All Violent Crime</b>		72	9	6	-	-	87
			82.76%	10.34%	6.90%	0.00%	0.00%	100.00%
85	<b>All Theft:</b>		72	5	8	-	-	85
			84.71%	5.88%	9.41%	0.00%	0.00%	100.00%
145	<b>All Other Crime</b>		130	9	5	-	1	145
	<b>Against State:</b>		89.66%	6.21%	3.45%	0.00%	0.69%	100.00%
317	<b>Total All Charges:</b>		274	23	19	0	1	317
			86.44%	7.26%	5.99%	0.00%	0.32%	100.00%

<sup>1</sup> In this Appendix the figures concern the number of charges prosecuted rather than the number of separate offences prosecuted. The number of charges is higher than the number of separate offences due to some crimes having more than one accused.

### Appendix 9 (continued): Gender of the Accused

d) Pre-Strike Period Crime:				01 October 1911 to 17 October 1913					
	no. of charges		Man	Woman	Boy	Girl	Unknown		Total
503	All Violent Crime		407	26	66	0	4		503
			80.91%	5.17%	13.12%	0.00%	0.80%		100.00%
964	All Theft:		677	58	222	7	-		964
			70.23%	6.02%	23.03%	0.73%	0.00%		100.00%
255	All Other Crime		203	33	16	0	3		255
	Against State:		79.61%	12.94%	6.27%	0.00%	1.18%		100.00%
1,722	Total All Charges:		1,287	117	304	7	7		1,722
			74.74%	6.79%	17.65%	0.41%	0.41%		100.00%

**Appendix 10: Crimes Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court and which involved Women as the Accused <sup>2</sup>**

a) All Strike Period Violent Crime:				No. of Cases		% of Total	
						(of each category)	
Type of Violent Crime:							
	Assault	(1 strike related)		5		12.50%	of 40
	Threatening Behaviour whereby a Breach of the Peace was occasioned (strike related)			1		6.25%	of 16
	Property Damage	(1 strike related)		3		17.65%	of 17
Total Number of Violence Cases Involving Female Accused:							
	(Total No. of Cases: 78)			9		11.54%	
Total Number of Females Accused of Violent Crime:							
	(Total No. of Accused: 78)			8		10.26%	
Occupations of Female Accused:							
	Domestic:			1	(1 strike related charge)		
	Wife:			2	(1 strike related charge)		
	Prostitute:			3	(1 strike related charge)		
	Unknown:			2			
b) All Strike Period Theft:				No. of Cases		% of Total	
						(of each category)	
Categorisation of Theft:							
	Theft	(none strike related)		5		7.58%	of 66
Total Number of Larceny Cases Involving Female Accused:							
	(Total No. of Cases: 82)			5		6.10%	
Total Number of Females Accused of Theft:							
	(Total No. of Accused: 57)			5		8.77%	
Occupations of Female Accused:							
	Domestic:			3			
	Prostitute:			1			
	Unknown:			1			

<sup>2</sup> None of those prosecuted for offences committed during the strike were girls.

**Appendix 10 (continued): Crimes Committed in Wellington During the  
General Strike of 1913 which resulted in Prosecutions in the Wellington  
Magistrate's Court and which involved Women as the Accused**

c) All Strike Period Other Crime Against the State:				No. of Cases		% of Total	
						(of each category)	
	Taking Part in an Unlawful Assembly			2		40.00%	of 5
	(both strike related)						
	Obscene Language	(none strike related)		5		12.20%	of 41
	Did Commit Mischief by Burning two panels			1		100.00%	of 1
	of a padded cell						
	(not strike related)						
Total Number of Criminal Cases Involving Female Accused:							
	(Total No. of Cases: 141)			8		5.67%	
Total Number of Female Accused of All Other Anti-State offences:							
	(Total No. of Accused: 117)			8		6.84%	
Occupations of Female Accused:							
	Domestic:			1	(1 strike related charge)		
	Wife:			1	(1 strike related charge)		
	Prostitute:			6			
	Unknown:			0			

**Appendix 10b: Crimes Committed in Wellington in the Twenty-four and  
a Half Months Before the General Strike of 1913 which resulted in  
Prosecutions in the Wellington Magistrate's Court and which involved  
Women or Girls as the Accused<sup>3</sup>  
(01 October 1911 to 17 October 1913)**

<b>a) All Pre-Strike Period Violent Crime:</b>				<b>No. of Cases</b>		<b>% of Total</b>	
Type of Violent Crime:						(of each category)	
	Assault (including 8 private prosecutions)			12		6.35%	of 189
	Threatening Behaviour whereby a Breach of the Peace was occasioned (3 accused)			2		3.08%	of 65
	Owner of a dog which attacked a person whereby the limbs of said person were endangered			1		16.67%	of 6
	Arson			1		33.33%	of 3
	Wilful damage or destruction of property:			9		9.89%	of 91
	<b>Total Number of Violence Cases Involving Female Accused:</b>						
	(Total No. of Cases: 398)			25		6.28%	
	<b>Total Number of Females Accused of Violent Crime:</b>						
	(Total No. of Accused: 431)			25		5.80%	
	<b>Occupations of Female Accused:</b>						
		Domestic:		3			
		Wife:		0			
		Wife of a medical practitioner:		1			
		Prostitute:		7			
		Unknown:		14			

<sup>3</sup> Only four of those prosecuted for offences committed during the pre-strike period were girls. The four schoolgirls (ages 10 years to 14 years) were responsible for six thefts. These thefts and their accused are included in section b) of the table below. No girls were prosecuted for any violent crime or other offence against the State.



**Appendix 10b (continued): Crimes Committed in Wellington in the  
Twenty-four and a Half Months Before the General Strike of 1913 which  
resulted in Prosecutions in the Wellington Magistrate's Court and which  
involved Women or Girls as the Accused**

b) All Pre-Strike Period Theft:				No. of Cases		% of Total	
						(of each category)	
Categorisation of Theft:							
	False Pretences			3		15.79%	of 19
	Forging a cheque			1		5.88%	of 17
	Intent to Defraud [Sending False Telegram]			1		100.00%	of 1
	Theft			57		8.33%	of 684
	Using counterfeit current gold coins			1		100.00%	of 1
Total Number of Larceny Cases Involving Female Accused:							
	(Total No. of Cases: 816)			63		7.72%	
Total Number of Females Accused of Theft:							
	(Total No. of Accused: 496)			40		8.06%	
Occupations of Female Accused:							
	Domestic:			21			
	House-keeper:			1			
	Wife:			2			
	Cook:			1			
	Milliner			1			
	Tailoress			1			
	Waitress:			2			
	Prostitute:			5			
	Schoolgirl:			4			
	Unknown:			2			
c) All Pre-Strike Period Other Crime Against				No. of Cases		% of Total	
	the State:					(of each category)	
	Obscene Language			33		21.15%	of 156
Total Number of Criminal Cases Involving Female Accused:							
	(Total No. of Cases: 242)			33		13.64%	
Total Number of Females Accused of All Other Anti-State offences:							
	(Total No. of Accused: 215)			25		11.63%	
Occupations of Female Accused:							
	Domestic:			3			
	Wife:			0			
	Prostitute:			18			
	Unknown:			4			

**Appendix 11: Crimes Committed in Wellington During the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court and which involved Juveniles as the Accused <sup>4</sup>**  
(none of the offences by juveniles were strike related)

<b>a) All Strike Period Violent Crime:</b>				<b>No. of Cases</b>		<b>% of Total</b>	
						(of each category)	
Type of Violent Crime:							
	Wilful Damage (respectively of a motor car,			3		17.65%	of 17
	of shrubs in a city reserve, and						
	of a window)						
	(none strike related)						
<b>Total Number of Violence Cases Involving Juvenile Accused:</b>							
(Total No. of Cases: 78)				3		3.85%	
<b>Total Number of Juveniles Accused of Violent Crime:</b>							
(Total No. of Accused: 78)				6		7.69%	
<b>Occupations of Juvenile Accused:</b>							
	Schoolboy:			2			
	Unknown:			4			
<b>b) All Strike Period Theft:</b>				<b>No. of Cases</b>		<b>% of Total</b>	
						(of each category)	
Categorisation of Theft: (none strike related):							
	Theft			5		7.58%	of 66
	Breaking and Entering & Committing Theft			1		8.33%	of 12
<b>Total Number of Larceny Cases Involving Juvenile Accused:</b>							
(Total No. of Cases: 82)				6		7.32%	
<b>Total Number of Juveniles Accused of Theft:</b>							
(Total No. of Accused: 57)				8		14.04%	
<b>Occupations of Juvenile Accused:</b>							
	Schoolboy:			6			
	Unknown:			2			
<b>c) All Strike Period Other Crime Against the State:</b>				<b>No. of Cases</b>		<b>% of Total</b>	
						(of each category)	
	Possession of a Firearm (though all air rifles)			2		100.00%	of 2
	(none strike related)						
<b>Total Number of Criminal Cases Involving Juvenile Accused:</b>							
(Total No. of Cases: 141)				2		1.42%	
<b>Total Number of Juveniles Accused of All Other Anti-State offences:</b>							
(Total No. of Accused: 117)				5		4.27%	
<b>Occupations of Juvenile Accused:</b>							
	Schoolboy:			4			
	Telegraph messenger:			1			

<sup>4</sup> None of those prosecuted for offences committed during the strike were girls.

**Appendix 11b: Crimes Committed in Wellington in the Twenty-four and  
a Half Months Before the General Strike of 1913 which resulted in  
Prosecutions in the Wellington Magistrate's Court and which involved  
Juveniles as the Accused<sup>5</sup>  
(01 October 1911 to 17 October 1913)**

<b>a) All Pre-Strike Period Violent Crime:</b>				<b>No. of Cases</b>		<b>% of Total</b>	
						(of each category)	
Type of Violent Crime:							
Assault (including 0 private prosecutions)				1		0.53%	of 189
Arson				2		66.67%	of 3
Wilful damage or destruction of property:				15		16.48%	of 91
Throwing a missile or stone to the				1		25.00%	of 4
danger of property							
Throwing a stone(s) to the damage of				5		83.33%	of 6
certain property							
<b>Total Number of Violence Cases Involving Juvenile Accused:</b>							
(Total No. of Cases: 398)				24		6.03%	
<b>Total Number of Juveniles Accused of Violent Crime:</b>							
(Total No. of Accused: 431)				56		12.99%	
<b>Occupations of Juvenile Accused:</b>							
Schoolboy:				35			
Carpenter's assistant:				1			
Jeweller's assistant				1			
Message-boy:				1			
Unknown:				18			

<sup>5</sup> Only four of those prosecuted for offences committed during the pre-strike period were girls. The four schoolgirls (ages 10 years to 14 years) were responsible for six thefts. These thefts and their accused are included in section b) of the table below. No girls were prosecuted for any violent crime or other offence against the State.

**Appendix 11b (continued): Crimes Committed in Wellington in the  
Twenty-four and a Half Months Before the General Strike of 1913 which  
resulted in Prosecutions in the Wellington Magistrate's Court and which  
involved Juveniles as the Accused**

b) All Pre-Strike Period Theft:			No. of Cases		% of Total	
					(of each category)	
Categorisation of Theft:						
Aiding the Commission of an Offence			1		100.00%	of 1
Attempted False Pretences with Intent			3		60.00%	of 5
to Defraud						
Attempted Theft			4		57.14%	of 7
Breaking and Entering (nothing stolen)			4		50.00%	of 8
Breaking and Entering & Committing Theft			15		28.85%	of 52
False Pretences			1		5.26%	of 19
Receiving stolen property			3		18.75%	of 16
Theft			120		17.54%	of 684
<b>Total Number of Larceny Cases Involving Juvenile Accused:</b>						
(Total No. of Cases: 816)			151		18.50%	
<b>Total Number of Juveniles Accused of Theft:</b>						
(Total No. of Accused: 496)			119		23.99%	
<b>Occupations of Juvenile Accused:</b>						
Schoolboy:			69			
Blacksmith's apprentice:			2			
Bootmaker (age 16):			1			
Brass boy (age 15):			1			
Clerk (age 15):			1			
Confectioner (age 14):			1			
Draper's assistant (age 15):			1			
Farm hand (age 15):			1			
Jeweller (age 13):			1			
Labourer:			2			
Machinist (age 14):			1			
Message-boy / Messenger:			14			
Office boy:			2			
Painter (age 16):			1			
Printer (age 14):			1			
Railway cadet (age 16):			1			
Saddler (age 15):			1			
Ship's boy (age 15):			1			
Tinsmith (age 14):			1			
Apprentice (trade not stated):			1		(age 15)	
Schoolgirl:			4			
Unknown:			11			

**Appendix 11b (continued): Crimes Committed in Wellington in the  
Twenty-four and a Half Months Before the General Strike of 1913 which  
resulted in Prosecutions in the Wellington Magistrate's Court and which  
involved Juveniles as the Accused**

<b>c) All Pre-Strike Period Other Crime Against</b>				<b>No. of Cases</b>		<b>% of Total</b>	
	<b>the State:</b>					(of each category)	
	Obscene Language			1		0.64%	of 156
	Discharging / unlawful use of a firearm			2		100.00%	of 2
	Possession of Firearm(s)			3		100.00%	of 3
<b>Total Number of Criminal Cases Involving Juvenile Accused:</b>							
	(Total No. of Cases: 242)			6		2.48%	
<b>Total Number of Juveniles Accused of All Other Anti-State offences:</b>							
	(Total No. of Accused: 215)			11		5.12%	
<b>Occupations of Juvenile Accused:</b>							
	Schoolboy:			4			
	Unknown:			7			

**Appendix 12: Drunkenness Prosecutions in Wellington between  
01 October 1911 and 31 December 1913  
(including Drunkenness Prosecutions in Wellington During the General  
Strike of 1913) <sup>6</sup>**

a) 01 October 1911 to 30 September 1913:				
Month		Convictions		Withdrawn or Dismissed
October 1911		184		1 Withdrawn
November 1911		162		
December 1911		244		
January 1912		203		1 Withdrawn
February 1912		192		
March 1912		178		
April 1912		208		
May 1912		257		
June 1912		278		
July 1912		232		
August 1912		269		
September 1912		191		1 Withdrawn
<b>Total: Oct 1911 to Sept 1912:</b>		<b>2598</b>	convictions,	<b>3 Withdrawn</b>
<b>Monthly Average for</b>				
<b>Oct 1911 to Sept 1912:</b>		<b>216.5</b>	convictions	
October 1912		331		2 Withdrawn
November 1912		226		
December 1912		249		1 Withdrawn
January 1913		196		1 Dismissed
February 1913		176		1 Withdrawn
March 1913		190		2 Withdrawn
April 1913		212		
May 1913		220		
June 1913		249		
July 1913		257		
August 1913		206		
September 1913		201		1 Withdrawn
<b>Total: Oct 1912 to Sept 1913:</b>		<b>2713</b>	convictions,	<b>7 Withdrawn, 1 Dismissed</b>
<b>Monthly Average for</b>				
<b>Oct 1912 to Sept 1913:</b>		<b>226.08</b>	convictions	
<b>Totals: Oct 1911 to Sept 1913:</b>				
Grand Total:		<b>5311</b>	convictions,	<b>10 Withdrawn, 1 Dismissed</b>
Average per year:		<b>2655.5</b>	convictions,	<b>5 Withdrawn, 0.5 Dismissed</b>
Average per month:		<b>221.29</b>	convictions	-

<sup>6</sup> The source of the following totals is a manual count of the entries in the Wellington Magistrate's Court Criminal Record Books (October 1911 to January 1914). To allocate each offence to a month the date of offence rather than the date of hearing has been used. In almost all of these cases the conviction was entered the day after the date of offence, or on the Monday morning if an offence was committed on a Saturday afternoon or evening. (There were no Magistrate's Court sessions on Sunday).

**Appendix 12 (continued): Drunkenness Prosecutions in Wellington  
between 01 October 1911 and 31 December 1913  
(including Drunkenness Prosecutions in Wellington During the General  
Strike of 1913)**

<b>b) 01 October 1913 to 31 December 1913:</b>					
Month			Convictions		Withdrawn or Dismissed
October 1913			193		
November 1913			152		
December 1913			262		1 Withdrawn
<b>Total Oct 1913 to Dec 1913:</b>			<b>607</b>	convictions,	<b>1 Withdrawn</b>
Average per month:			<b>202.33</b>	convictions,	0.33 Withdrawn
<b>c) Exact Strike Period - 18 October 1913 to 20 December 1913:</b>					
Period			Convictions		Withdrawn or Dismissed
18 Oct to 31 Oct 1913			80		
01 Nov to 30 Nov 1913			152		
01 Dec to 20 Dec 1913			132		
<b>Total Exact Strike:</b>			<b>364</b>	convictions,	<b>0 Withdrawn or Dismissed</b>
Average for the two					
<b>Strike Months:</b>			<b>182</b>	convictions	-

**Appendix 13: Larcenies Committed in Wellington in the Twenty-four and a Half Months Before the General Strike of 1913 which resulted in Prosecutions in the Wellington Magistrate's Court**  
(01 October 1911 to 17 October 1913)<sup>7</sup>

<b>a) 01 October 1911 to 17 October 1913:</b>			
Month			Prosecutions
October 1911			42
November 1911			17
December 1911			35
January 1912			26
February 1912			38
March 1912			32
April 1912			20
May 1912			17
June 1912			43
July 1912			38
August 1912			33
September 1912			26
<b>Total: Oct 1911 to Sept 1912:</b>			<b>367</b>
<b>Monthly Average for</b>			
<b>Oct 1911 to Sept 1912:</b>			<b>30.58</b>
October 1912			35
November 1912			24
December 1912			34
January 1913			29
February 1913			27
March 1913			30
April 1913			37
May 1913			31
June 1913			32
July 1913			74
August 1913			37
September 1913			40
<b>Total: Oct 1912 to Sept 1913:</b>			<b>430</b>
<b>Monthly Average for</b>			
<b>Oct 1912 to Sept 1913:</b>			<b>35.83</b>
<b>Totals: Oct 1911 to Sept 1913:</b>			
	Grand Total:		<b>797</b>
	Average per year:		<b>398.5</b>
	Average per month:		<b>33.21</b>

<b>a) 01 October 1911 to 17 October 1913 (continued):</b>			
Period			Prosecutions
01 Oct 1913 to 17 Oct 1913:			19
<b>Totals: 01 Oct 1911 to 17 Oct 1913:</b>			
	Grand Total:		<b>816</b>
	Average per month:		<b>33.31</b>
<b>b) 01 April 1913 to 17 October 1913:</b>			
<b>(the 6.5 months immediately prior to the 1913 strike)</b>			
	Grand Total:		<b>270</b>
	Average per month:		<b>41.54</b>

<sup>7</sup> To allocate each offence to a month the date of offence rather than the date of hearing has been used.